

Tab 1 SB 52 by Rodrigues; (Identical to H 00281) Postsecondary Education							
429070	A	S	RCS	ED, Rodrigues	Delete L.122:	01/26 12:24 PM	

Tab 2 SB 264 by Rodrigues; (Identical to H 00233) Higher Education							
793606	D	S	RCS	ED, Rodrigues	Delete everything after	01/26 12:24 PM	
107476	AA	S	FC	ED, Thurston	Delete L.10 - 84:	01/26 12:24 PM	
194994	AA	S	L RCS	ED, Rodrigues	Delete L.28 - 79:	01/26 12:24 PM	

Tab 3 SB 220 by Brandes (CO-INTRODUCERS) Rodrigues; Public Records and Public Meetings							
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

EDUCATION
Senator Gruters, Chair
Senator Jones, Vice Chair

MEETING DATE: Tuesday, January 26, 2021

TIME: 9:00—11:30 a.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Gruters, Chair; Senator Jones, Vice Chair; Senators Berman, Bradley, Broxson, Diaz, Hutson, Passidomo, Polsky, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A3 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	SB 52 Rodrigues (Identical H 281)	Postsecondary Education; Clarifying fee exemptions for the Department of Children and Families; establishing the Dual Enrollment Scholarship Program; requiring students participating in dual enrollment programs to meet specified minimum eligibility requirements in order for institutions to receive reimbursements; authorizing university boards of trustees to implement a bonus scheme for state university system employees based on awards for work performance or employee recruitment and retention, etc. ED 01/26/2021 Fav/CS AED AP	Fav/CS Yeas 7 Nays 3
2	SB 264 Rodrigues (Identical H 233)	Higher Education; Requiring the State Board of Education to require each Florida College System institution to conduct an annual assessment related to intellectual freedom and viewpoint diversity at that institution; prohibiting the State Board of Education from shielding Florida College System institution students from certain speech; requiring the Board of Governors to require each state university to conduct an annual assessment related to intellectual freedom and viewpoint diversity at that institution; prohibiting the Board of Governors from shielding state university students from certain speech, etc. ED 01/26/2021 Fav/CS AED AP	Fav/CS Yeas 6 Nays 4

COMMITTEE MEETING EXPANDED AGENDA

Education

Tuesday, January 26, 2021, 9:00—11:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 220 Brandes	Public Records and Public Meetings; Providing an exemption from public records requirements for any personal identifying information of an applicant for president of a state university or a Florida College System institution; specifying that personal identifying information of applicants who are in the final group of applicants is no longer confidential and exempt at a time certain; specifying that certain meetings are not exempt from public meeting requirements; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. ED 01/26/2021 Favorable GO RC	Favorable Yeas 6 Nays 4
4	Presentations on the alignment between postsecondary education and labor market demand		Temporarily Postponed
	Adrienne Johnston, Director of the Division of Workforce Services, Department of Economic Opportunity		Temporarily Postponed
	Henry Mack, Chancellor of the Division of Career and Adult Education, Department of Education		Temporarily Postponed
	Kathy Hebda, Chancellor of the Division of Florida Colleges, Department of Education		Temporarily Postponed
	Marshall Criser, Chancellor of the State University System of Florida		Temporarily Postponed
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Education

BILL: CS/SB 52

INTRODUCER: Senator Rodrigues

SUBJECT: Postsecondary Education

DATE: January 26, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Westmark	Bouck	ED	Fav/CS
2.			AED	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 52 contains provisions to help postsecondary institutions provide certain educational and financial benefits and supports to students and employees. Specifically, the bill:

- Clarifies that postsecondary tuition and fee exemptions apply to a student who is currently in the custody of the Department of Children and Families or a specified relative or nonrelative, or who was at the time he or she reached 18 years of age.
- Establishes the Dual Enrollment Scholarship Program to reimburse eligible postsecondary institutions for tuition and related costs for dual enrollment courses taken by certain students, and specifies reporting, rates, and timeline.
- Authorizes a university board of trustees to implement a bonus scheme based on awards for work performance or employee recruitment and retention, allowing the university to target certain employees for bonuses. Bonus plans must be approved by the Board of Governors.

For the 2021-2022 fiscal year, the Dual Enrollment Scholarship Program is estimated to cost \$28.5 million.

The bill takes effect July 1, 2021.

II. Present Situation:

Fee Waivers and Exemptions – Students in Department of Children and Families Custody

All students in workforce education programs,¹ Florida College System (FCS) institutions,² and state universities³ must be charged fees except students who are exempt from fees or students whose fees are waived.

Current law stipulates that a student who is or was at the time he or she reached 18 years of age in the custody of the Department of Children and Families (DCF) or in the custody of a relative or nonrelative specified in law,⁴ is exempt from the payment of tuition and fees at a state university, FCS institution, or Florida school district that provides workforce education programs. Such exemption includes fees associated with enrollment in applied academics for adult education instruction and remains valid until the student reaches 28 years of age.⁵

Mandatory student tuition and fee exemptions relating to students in DCF care in the State University System and FCS are outlined by year in the following tables.

State University System DCF Specified Fee Exemptions by Academic Year⁶

	2017-18		2018-19		2019-20	
	Waivers	Amount	Waivers	Amount	Waivers	Amount
Adopted (5006) ⁷	1,156	\$3,204,829	1,485	\$4,076,209	1,704	\$4,836,057
Foster Care/State Custody (5005) ⁸	1,035	\$2,911,275	811	\$2,444,456	801	\$2,477,687
Non-State Custody (5007) ⁹	127	\$365,738	449	\$1,118,653	488	\$1,255,052
Total	2,318	\$6,481,842	2,745	\$7,639,318	2,993	\$8,568,796

¹ Section 1009.22(2), F.S.

² Section 1009.23(2)(a), F.S.

³ Section 1009.24(2), F.S.

⁴ Section 39.5085 or s. 39.6225, F.S.

⁵Section 1009.25(1)(c) and (d), F.S. Tuition and fee exemptions as defined in s. 1009.25, F.S., can be distinguished from fee waivers or educational benefits as defined in ss. 112.19, 112.191, 112.1912, 112.1915, 961.06, 1009.26, and 1009.265, F.S. An exemption is “provided for certain students who are, by statutory definition, exempt from the payment of tuition and fees, including lab fees” and may generally include students who are in dual enrollment, apprenticeship programs, welfare transition, and in the custody of a relative, among other categories. In contrast, waivers transpire when students have their fees waived or forgiven by an institution. Examples of waivers include those related to state employees, college employees and their dependents, Purple Heart recipients, and certain classroom teachers. The Florida College System, *Exemptions and Waivers in The Florida College System* (March 2012), available at <http://www.fldoe.org/core/fileparse.php/7724/urlt/0072361-fyi2012-02exemptions.pdf>, at 1.

⁶ BOG ODA Analysis (Nov. 9, 2020), Email, Troy Miller, Deputy Chief Data Officer, Florida Board of Governors (Nov. 10, 2020).

⁷ Defined as a student adopted from DCF after May 5, 1997. Section 1009.25(1)(d), F.S.

⁸ Defined in s. 1009.25(1)(c), F.S.

⁹ Defined in s. 1009.25(1)(c) and (d), F.S.

Florida College System DCF Specified Fee Exemptions by Academic Year¹⁰

	2017-18		2018-19		2019-20	
	Waivers ¹¹	Amount	Waivers	Amount	Waivers	Amount
Adopted from DCF Services ¹²	1,459	\$2,459,399	1,735	\$2,972,262	1,833	\$3,207,602
Custody of DCF ¹³	2,459	\$4,281,744	2,464	\$4,280,172	2,325	\$4,040,160
Custody of a Relative ¹⁴	283	\$501,827	318	\$588,870	324	\$573,952
Total	4,201	\$7,242,970	4,517	\$7,841,304	4,482	\$7,821,714

It is unclear to what extent all postsecondary institutions apply the tuition and fee exemptions to students who qualify for the exemption and begin postsecondary education before age 18.¹⁵

Dual Enrollment

Access to advanced coursework is provided by law to students in secondary schools and is intended to shorten the time necessary for a student to complete the requirements associated with conferring a high school diploma and a postsecondary degree, broaden the scope of curricular options available to students, or increase the depth of study available for a subject.¹⁶

Dual enrollment is the enrollment of an eligible secondary student or home education student in a postsecondary course creditable toward both a high school diploma and a career certificate or an associate or baccalaureate degree.¹⁷ An eligible secondary student is a student who is enrolled in any of grades 6 through 12 in a Florida public school or in a Florida private school that is in compliance with the requirements specified in law¹⁸ and provides a secondary curriculum pursuant to law.¹⁹ Students who meet the eligibility requirements and who participate in dual enrollment programs are exempt from the payment of registration, tuition, and laboratory fees.²⁰

¹⁰ The Florida College System, *Summary of Student Fee Exemptions and Waivers For the 2017-2018 Fiscal Year* (2018), version 1, available at <http://www.fldoe.org/core/fileparse.php/19874/urlt/1718ExemptWaiverSS.PDF>, at 1; The Florida College System, *Summary of Student Fee Exemptions and Waivers For the 2018-2019 Fiscal Year* (2019), version 1, available at <http://www.fldoe.org/core/fileparse.php/19874/urlt/1819ExemptWaiverSS.PDF>, at 1; and The Florida College System, *Summary of Student Fee Exemptions and Waivers For the 2019-2020 Fiscal Year* (2020), version 1, available at <http://www.fldoe.org/core/fileparse.php/19874/urlt/1920ExemptWaiveresSS.pdf>, at 1.

¹¹ Numbers reflect unduplicated headcount.

¹² Defined in s. 1009.25(1)(d), F.S. Applicable only to those students adopted from the Department of Children and Family Services after May 5, 1997.

¹³ Defined in s. 1009.25(1)(c), F.S.

¹⁴ Defined in s. 1009.25(1)(d), F.S.

¹⁵ Email, Alan F. Abramowitz, Executive Director, Florida Statewide Guardian ad Litem Office (Oct. 1, 2020). *See also DCF Fee Exemptions in the Florida College System, FAQ*, The Florida College System, available at <http://www.fldoe.org/core/fileparse.php/7480/urlt/0082785-faqscdfexemption.pdf> (last visited Jan. 6, 2021).

¹⁶ Section 1007.27(1), F.S.

¹⁷ Section 1007.271(1), F.S.

¹⁸ Section 1002.42(2), F.S. Private schools must comply with statutory database requirements including the type, name, address, and telephone number of the institution; the names of administrative officers; the enrollment by grade or special group; the number of graduates; the number of instructional and administrative personnel; the number of days the school is in session; and background checks. *Id.* A private school must comply with requirements regarding retention of records, attendance records and reports, school-entry health examinations, and immunizations, in addition to the annual private school survey. Section 1002.42(2)-(6), F.S.

¹⁹ Section 1007.271(2), F.S.

²⁰ Section 1007.271(16), F.S. Florida law specifies that the provisions of law which exempt dual enrolled and early admission students from payment for instructional materials and tuition and fees, including laboratory fees, do not apply to students who select the option of enrolling in an eligible independent institution. Section 1011.62(1)(i), F.S. An eligible independent

A growing body of research suggests that participation in dual enrollment can lead to improved academic outcomes, especially for students from low-income backgrounds and first-generation college students. Research suggests that participation in dual enrollment can lead to better grades in high school, increased enrollment in college following high school, higher rates of persistence in college, greater credit accumulation, and increased rates of credential attainment.²¹ In addition, research indicates that allowing students in high school to complete even a single college class may significantly increase their chances of attending college and eventually graduating.²²

The following table shows 2019-2020 academic year dual enrollment participation by public and private school and home education program students at FCS institutions, state universities, and at eligible private colleges and universities.

	FCS Institutions ²³	State Universities ²⁴	Private Colleges and Universities ²⁵
Public School	75,778	10,235	6,908
Private School	2,590	539	
Home Education	3,941	204	

Generally, about three times more students take dual enrollment courses at an FCS institution during the fall and spring terms than in the summer term.²⁶ More than 15 times as many students take dual enrollment courses at a state university in the fall and spring compared to the summer term.²⁷

Eligibility Criteria

Student eligibility requirements for initial enrollment in college credit dual enrollment courses include a 3.0 unweighted high school grade point average (GPA) and the minimum score on a common placement test²⁸ adopted by the State Board of Education (SBE) which indicates that

institution is an independent college or university, which is not-for-profit, is accredited by a regional or national accrediting agency recognized by the United States Department of Education, and confers degrees as defined in s. 1005.02. *Id.*

²¹ United States Department of Education, *FACT SHEET: Expanding College Access Through the Dual Enrollment Pell Experiment* (May 16, 2016), <https://www.ed.gov/news/press-releases/fact-sheet-expanding-college-access-through-dual-enrollment-pell-experiment> (last visited Jan. 6, 2021).

²² Jobs for the Future, *Taking College Courses in High School: A Strategy for College Readiness* (Oct. 2012), available at https://jfforg-prod-prime.s3.amazonaws.com/media/documents/TakingCollegeCourses_101712.pdf. Students who had completed college algebra for dual enrollment had associate degree attainment rates that were 23 percentage points higher and bachelor's degree attainment rates 24 percentage points higher than students with no such experience. *Id.*

²³ Email, Alexis Calatayud, Legislative Affairs Director, Department of Education (Jan. 22, 2021).

²⁴ Email, Jason Jones, Chief Data Officer, Florida Board of Governors (Jan. 21, 2021).

²⁵ Dual enrollment participation data listed for private colleges and universities is only applicable from the 2018-2019 academic year.

²⁶ In 2019-2020, 77,157 students dually enrolled at an FCS institution in the fall and spring terms, and 22,729 students dually enrolled in the summer term. (Students enrolled in fall/spring and summer are counted twice.) Email, Alexis Calatayud, Legislative Affairs Director, Department of Education (Jan. 22, 2021).

²⁷ In 2019-2020, 16,389 students dually enrolled at a state university in the fall and spring terms, and 1,037 students dually enrolled in the summer term. Email, Jason Jones, Chief Data Officer, Florida Board of Governors (Jan. 21, 2021).

²⁸ The Postsecondary Education Readiness Test (PERT) is Florida's customized common placement test. The purpose of the PERT is to determine accurate course placement based on the student's skills and abilities. The PERT is aligned with the Postsecondary Readiness Competencies identified by Florida faculty as necessary for success in entry-level college credit coursework. The PERT assessment system includes Placement and Diagnostic tests in mathematics, reading and writing.

the student is ready for college-level coursework. For continued enrollment in college credit dual enrollment courses, students must maintain a 3.0 unweighted high school GPA and the minimum postsecondary GPA established by the postsecondary institution. For initial and continued enrollment in career certificate dual enrollment courses, students must have a 2.0 unweighted high school GPA. Exceptions to the required GPA and additional eligibility criteria authorized in law must be included in the dual enrollment articulation agreement.²⁹

Dual Enrollment Articulation Agreement

A dual enrollment articulation agreement establishes the guidelines for implementing the program for eligible students.³⁰ Specifically, Florida law requires:

- Each district school superintendent and each public postsecondary institution president to develop a comprehensive dual enrollment articulation agreement for the respective school district and postsecondary institution.³¹ District school boards may not refuse to enter into a dual enrollment articulation agreement with a local FCS institution if that institution has the capacity to offer dual enrollment courses.³²
- Each public postsecondary institution to enter into a home education articulation agreement with each home education student seeking enrollment in a dual enrollment course and such student's parent.³³
- Each public postsecondary institution to enter into a private school articulation agreement with each eligible private school in its geographic service area seeking to offer dual enrollment courses to its students.³⁴

In addition, district school boards and FCS institutions may enter into further dual enrollment articulation agreements with state universities, and school districts may also enter into dual enrollment articulation agreements with eligible independent colleges and universities.³⁵

Instructional Materials

Instructional materials assigned for use within dual enrollment courses must be made available to dual enrollment students from Florida public high schools free of charge.³⁶ Florida law neither prohibits nor requires an FCS institution to provide instructional materials to a home education

Rule 6A-10.0315, F.A.C., establishes the test scores used to determine whether a student is ready for college level coursework. Florida Department of Education, *Common Placement Testing*, <http://www.fldoe.org/schools/higher-ed/fl-college-system/common-placement-testing.shtml> (last visited Jan. 6, 2021). As an alternative to PERT, students may take the ACCUPLACER, SAT, and ACT to demonstrate readiness to perform college-level work. Rule 6A-10.0315(2), F.A.C.; *see also* Rule 6A-14.064(1)(b), F.A.C. The placement testing requirement for student eligibility for dual enrollment for courses taken through December 31, 2020 was suspended pursuant to DOE emergency order 2020-EO-02. State of Florida Department of Education, *DOE Order No. 2020-EO-02* (May 13, 2020), available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEEmergencyOrder2020-EO-02.pdf>, at 7.

²⁹ Section 1007.271(3), F.S.

³⁰ Florida Department of Education, *Dual Enrollment Frequently Asked Questions*, available at <http://www.fldoe.org/core/fileparse.php/5421/urlt/DualEnrollmentFAQ.pdf>, at 13.

³¹ Section 1007.271(21), F.S.

³² Section 1007.271(4), F.S.

³³ Section 1007.271(13), F.S.

³⁴ Section 1007.271(24), F.S.

³⁵ Section 1007.271(23), F.S.

³⁶ Section 1007.271(17), F.S. The 2020 General Appropriations Act provided \$10,590,529 to public school districts for the provision of dual enrollment instructional materials. Specific Appropriation 92, ch. 2020-111, L.O.F.

student or a student from a private school at no cost to the student.³⁷ Instructional materials purchased by a district school board or FCS institution board of trustees on behalf of dual enrollment students must be the property of the board against which the purchase is charged.³⁸

Funding for Dual Enrollment

The dual enrollment articulation agreement between a district school superintendent and a public postsecondary institution president must address specified information including a funding provision that delineates costs incurred by each entity,³⁹ which include the following:

- School districts are required to pay public postsecondary institutions the standard tuition rate⁴⁰ per credit hour from funds provided in the Florida Education Finance Program (FEFP)⁴¹ when dual enrollment course instruction takes place on the postsecondary institution's campus and the course is taken during the fall or spring term.
- When dual enrollment is provided on the high school site by postsecondary institution faculty, the school district must reimburse the costs associated with the postsecondary institution's proportion of salary and benefits to provide the instruction.
- When dual enrollment course instruction is provided on the high school site by school district faculty, the school district is not responsible for payment to the postsecondary institution.⁴²

Florida law does not specify a similar funding provision for private schools to pay public postsecondary education institutions for the dual enrollment instruction that such institutions provide to the private school dual enrollment students. However, postsecondary institutions are not prohibited from charging a fee to private schools for the dual enrollment of its students.⁴³

Subject to annual appropriation in the General Appropriations Act, a public postsecondary institution must receive an amount of funding equivalent to the standard tuition rate per credit hour for each dual enrollment course taken by a student during the summer term.⁴⁴

³⁷ The private school articulation agreement must include a provision concerning the student's responsibilities for providing his or her own instructional materials. Section 1007.271(24)(a), F.S. The 2020 General Appropriations Act provided \$550,000 to Florida College System institutions for dual enrollment instructional materials. Specific Appropriation 132, ch. 2020-111, L.O.F.

³⁸ Section 1007.271(17), F.S.

³⁹ Section 1007.271(21)(n), F.S.

⁴⁰ The standard in-state tuition rate is set by law at \$2.33 per contract hour for programs leading to a career certificate or an applied technology diploma. Section 1009.22(3)(c), F.S. The standard tuition for lower-division courses at a FCS institution is \$71.98 per credit hour. Section 1009.23(3)(a), F.S. The standard undergraduate tuition rate at a state university is \$105.07 per credit hour. Section 1009.24(4)(a), F.S.

⁴¹ The FEFP is the primary mechanism for funding the operating costs of Florida school districts. *See generally* Florida Department of Education, *2020-21 Funding for Florida School Districts* (2020), available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/fefpdist.pdf>.

⁴² Section 1007.271(21)(2)1, F.S.

⁴³ The private school articulation agreement must include a provision that costs associated with tuition and fees, including registration, and laboratory fees, will not be passed along to the student. Section 1007.271(24)(b)5., F.S.

⁴⁴ Section 1007.271(21)(n)2., F.S.

Extra Compensation - Bonus Schemes

In 2011,⁴⁵ Florida law⁴⁶ was amended to modify the prohibition on extra compensation made to public employees after the service has been rendered or the contract made to authorize specified bonus plans or severance pay.

Current law requires that any policy, ordinance, rule, or resolution designed to implement a bonus scheme must:⁴⁷

- Base the award of a bonus on work performance;
- Describe the performance standards and evaluation process by which a bonus will be awarded;
- Notify all employees of the policy, ordinance, rule, or resolution before the beginning of the evaluation period on which a bonus will be based; and
- Consider all employees for the bonus.

III. Effect of Proposed Changes:

Fee Exemptions – Students in Department of Children and Families Custody

CS/SB 52 amends s. 1009.25, F.S., to clarify that tuition and fee exemptions apply to a student who is currently in the custody of the Department of Children and Families (DCF) or in the custody of a relative or nonrelative defined in law, or was at the time he or she reached 18 years of age. Therefore, the bill may reduce confusion in the identification of students under DCF custody who are eligible for a tuition and fee exemption, specifically those students who enroll at a postsecondary institution prior to age 18.

Dual Enrollment Scholarship Program

The bill creates s. 1009.30, F.S., to establish the Dual Enrollment Scholarship Program (Program), administered by the Department of Education (DOE) in accordance with rules adopted by the State Board of Education (SBE), to support postsecondary institutions in providing dual enrollment.

The bill establishes reimbursements to postsecondary institutions for students participating in dual enrollment, which require that:

- Beginning in the 2021 fall term, the Program reimburse eligible postsecondary institutions for tuition and related instructional materials costs for dual enrollment courses taken by private school or home education program secondary students during the fall or spring terms.
- Beginning in the 2022 summer term, the Program reimburse institutions for tuition and related instructional materials costs for dual enrollment courses taken by public school, private school, or home education program secondary students during the summer term.

The bill specifies the following reimbursements, which provide:

⁴⁵ Chapter 2011-143, L.O.F.

⁴⁶ Section 215.425, F.S.

⁴⁷ Section 215.425(3), F.S.

- Florida College System institutions the in-state resident tuition rate established in s. 1009.23(3)(a).
- State University System institutions and independent postsecondary institutions the standard tuition rate established in s. 1009.24(4)(a).
- All eligible postsecondary institutions instructional materials costs based on a rate specified in the General Appropriations Act (GAA).

The Program requires a student participating in a dual enrollment program to meet minimum eligibility requirements specified in law⁴⁸ for the institution to receive reimbursement.

The bill establishes reporting requirements for participating postsecondary institutions, such that:

- Annually by March 15,⁴⁹ each participating institution must report to the DOE any eligible secondary students from private schools or home education programs enrolled during the previous fall or spring terms.
- Annually by July 15, each participating institution must report to the DOE any eligible public school, private school, or home education program students enrolled during the summer term.
- For each dual enrollment course in which the student is enrolled, the report must include a unique student identifier,⁵⁰ the postsecondary institution name, the postsecondary course number, the postsecondary course name, and the number of postsecondary course credits earned by the student.

The bill specifies that reimbursement is contingent upon an appropriation in the GAA each year. If the statewide reimbursement amount is greater than the appropriation, the institutional reimbursement amounts must be prorated among the institutions that have reported eligible students to the DOE by the deadlines specified. The bill specifies that dual enrollment courses taken during the following terms shall be reimbursed according to the following deadlines:

- For courses taken during the fall and spring terms, by April 15 of the same year.
- For courses taken during the summer term, by August 15 of the same year, before the beginning of the next academic year.

The bill requires the SBE to adopt rules to implement this section.

The establishment of a dedicated fund source to help defray the costs of dual enrollment for postsecondary institutions and private secondary schools may enhance student access to dual enrollment courses. The Program may also reduce the cost of dual enrollment for private school and home education students through providing additional funds for instructional materials.

⁴⁸ Section 1007.271, F.S.

⁴⁹ It is unclear if all student data will be available by the reporting dates required in the bill. Board of Governors, *2021 Legislative Bill Analysis of SB 52* (Jan 5, 2021).

⁵⁰ The bill requires postsecondary institutions to assign unique student identifiers for private school and home school program students. Board of Governors, *2021 Legislative Bill Analysis of SB 52* (Jan 5, 2021). Public school students are assigned a Florida student identification number by the school district. Section 1008.386, F.S.

Bonus for State University System Employees

The bill creates s. 1012.978, F.S., to authorize a university board of trustees to implement a bonus scheme based on awards for work performance or employee recruitment and retention. Therefore, the bill expands the purpose in current law for a bonus scheme to include not only work performance but also employee recruitment and retention, and allows the university to target certain employees for a bonus.

The bill requires the board of trustees to submit to the Board of Governors (BOG) the bonus scheme, including the evaluation criteria by which a bonus will be awarded, and requires the BOG to approve any bonus scheme prior to implementation.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill may reduce expenses for private schools no longer required to pay costs associated with dual enrollment students. The financial supports for dual enrollment courses may increase opportunities for Florida secondary students to take college-credit courses that will count toward an associate or baccalaureate degree while still in high school, which may reduce costs for students and families.

C. Government Sector Impact:

For the 2021-2022 fiscal year, the Dual Enrollment Scholarship Program is estimated to cost \$28.5 million. The estimate is based on tuition and instructional materials costs for the estimated number of private school and home education program students participating in dual enrollment in the fall and spring terms, and all dual enrollment students in the summer term.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1009.25 of the Florida Statutes.

This bill creates sections 1009.30 and 1012.978 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Education on January 26, 2021:**

The committee substitute authorizes appropriate flexibility to universities for bonus award criteria, to expand the criteria for award of a bonus to include not only work performance but also targeted recruitment and retention.

B. Amendments:

None.



429070

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2021	.	
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	.	
	.	

The Committee on Education (Rodrigues) recommended the following:

Senate Amendment

Delete line 122
and insert:
Notwithstanding s. 215.425(3), a university board of trustees

By Senator Rodrigues

27-00652A-21

202152__

1 A bill to be entitled
 2 An act relating to postsecondary education; amending
 3 s. 1009.25, F.S.; clarifying fee exemptions for the
 4 Department of Children and Families; creating s.
 5 1009.30, F.S.; providing legislative findings;
 6 establishing the Dual Enrollment Scholarship Program;
 7 providing for the administration of the program;
 8 providing for the reimbursement of tuition and costs
 9 to eligible postsecondary institutions; requiring
 10 students participating in dual enrollment programs to
 11 meet specified minimum eligibility requirements in
 12 order for institutions to receive reimbursements;
 13 requiring participating institutions to annually
 14 report specified information to the Department of
 15 Education by certain dates; providing a reimbursement
 16 schedule for tuition and instructional materials
 17 costs; requiring the Department of Education to
 18 reimburse institutions by specified dates; providing
 19 that reimbursement for dual enrollment courses is
 20 contingent upon appropriations; providing for the
 21 prorating of reimbursements under certain
 22 circumstances; requiring the State Board of Education
 23 to adopt rules; creating s. 1012.978, F.S.;
 24 authorizing university boards of trustees to implement
 25 a bonus scheme for state university system employees
 26 based on awards for work performance or employee
 27 recruitment and retention; requiring a board of
 28 trustees to submit the bonus scheme to the Board of
 29 Governors; requiring the Board of Governors to approve

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 such bonus scheme before its implementation; providing
 31 an effective date.
 32

33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Paragraphs (c) and (d) of subsection (1) of
 36 section 1009.25, Florida Statutes, are amended to read:
 37 1009.25 Fee exemptions.—

38 (1) The following students are exempt from the payment of
 39 tuition and fees, including lab fees, at a school district that
 40 provides workforce education programs, Florida College System
 41 institution, or state university:

42 (c) A student who is, or was at the time he or she reached
 43 18 years of age, in the custody of the Department of Children
 44 and Families or who, after spending at least 6 months in the
 45 custody of the department after reaching 16 years of age, was
 46 placed in a guardianship by the court. Such exemption includes
 47 fees associated with enrollment in applied academics for adult
 48 education instruction. The exemption remains valid until the
 49 student reaches 28 years of age.

50 (d) A student who is, or was at the time he or she reached
 51 18 years of age, in the custody of a relative or nonrelative
 52 under s. 39.5085 or s. 39.6225 or who was adopted from the
 53 Department of Children and Families after May 5, 1997. Such
 54 exemption includes fees associated with enrollment in applied
 55 academics for adult education instruction. The exemption remains
 56 valid until the student reaches 28 years of age.

57 Section 2. Section 1009.30, Florida Statutes, is created to
 58 read:

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1009.30 Dual Enrollment Scholarship Program.—

(1) The Legislature finds and declares that dual enrollment is an integral part of the education system in this state and should be available for all eligible secondary students without cost to the student. There is established the Dual Enrollment Scholarship Program to support postsecondary institutions in providing dual enrollment.

(2) The Department of Education shall administer the Dual Enrollment Scholarship Program in accordance with rules adopted by the State Board of Education pursuant to subsection (9).

(3) (a) Beginning in the 2021 fall term, the program shall reimburse eligible postsecondary institutions for tuition and related instructional materials costs for dual enrollment courses taken by private school or home education program secondary students during the fall or spring terms.

(b) Beginning in the 2022 summer term, the program shall reimburse institutions for tuition and related instructional materials costs for dual enrollment courses taken by public school, private school, or home education program secondary students during the summer term.

(4) A student participating in a dual enrollment program must meet the minimum eligibility requirements specified in s. 1007.271 in order for the institution to receive a reimbursement.

(5) Annually, by March 15, each participating institution must report to the department any eligible secondary students from private schools or home education programs who were enrolled during the previous fall or spring terms. Annually, by July 15, each participating institution must report to the

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department any eligible public school, private school, or home education program students who were enrolled during the summer term. For each dual enrollment course in which the student is enrolled, the report must include a unique student identifier, the postsecondary institution name, the postsecondary course number, the postsecondary course name, and the number of postsecondary course credits earned by the student.

(6) (a) Florida College System institutions shall be reimbursed at the in-state resident tuition rate established in s. 1009.23(3) (a).

(b) State University System institutions and independent postsecondary institutions shall be reimbursed at the standard tuition rate established in s. 1009.24(4) (a).

(c) Institutions shall be reimbursed for instructional materials costs based on a rate specified in the General Appropriations Act.

(7) For dual enrollment courses taken during the fall and spring terms, the department must reimburse institutions by April 15 of the same year. For dual enrollment courses taken during the summer term, the department must reimburse institutions by August 15 of the same year, before the beginning of the next academic year.

(8) Reimbursement for dual enrollment courses is contingent upon an appropriation in the General Appropriations Act each year. If the statewide reimbursement amount is greater than the appropriation, the institutional reimbursement amounts specified in subsection (6) shall be prorated among the institutions that have reported eligible students to the department by the deadlines specified in subsection (5).

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117 (9) The State Board of Education shall adopt rules to
118 implement this section.
119 Section 3. Section 1012.978, Florida Statutes, is created
120 to read:
121 1012.978 Bonuses for state university system employees.—
122 Notwithstanding s. 215.425(3)(d), a university board of trustees
123 may implement a bonus scheme based on awards for work
124 performance or employee recruitment and retention. The board of
125 trustees must submit to the Board of Governors the bonus scheme,
126 including the evaluation criteria by which a bonus will be
127 awarded. The Board of Governors must approve any bonus scheme
128 created under this section before its implementation.
129 Section 4. This act shall take effect July 1, 2021.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/2021
Meeting Date

52
Bill Number (if applicable)

Topic Postsecondary Education

Amendment Barcode (if applicable)

Name James Herzog

Job Title Director of Legislative Services

Address 464 Bay point Way N
Street

Phone (850) 339-1217

Saint Johns FL 32259
City State Zip

Email jherzog@faans.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Association of Academic Nonpublic Schools

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

52
Bill Number (if applicable)

Meeting Date

Topic _____

Amendment Barcode (if applicable)

Name MATTHEW LATA

Job Title PROFESSOR

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Phone 850 322 1361

Tomb 32309
City State Zip

Email matthlata@gmail.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing UFF United Faculty of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/2021
Meeting Date

SB 52
Bill Number (if applicable)

Topic Support for SB 52 / Dual Enrollment

Amendment Barcode (if applicable)

Name Michael Barrett

Job Title Associate for Education

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Street

Phone (813) 240-2355

Tallahassee FL 32301
City State Zip

Email mbarrett@flaccb.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/21

Meeting Date

SB52

Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Alexis Laro

Job Title Leg. Affairs

Address 2221 Orange Ave E

Phone 363-1011

Street

Tallahassee FL 32311

City

State

Zip

Email alacro@sos.fl.gov

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Step Up For Students

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Education

BILL: CS/SB 264

INTRODUCER: Education Committee and Senator Rodrigues

SUBJECT: Higher Education

DATE: January 26, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Brick</u>	<u>Bouck</u>	<u>ED</u>	<u>Fav/CS</u>
2. _____	_____	<u>AED</u>	_____
3. _____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 264 adds requirements designed to protect the expression of diverse viewpoints at Florida College System (FCS) institutions and state universities. The bill:

- Requires each FCS institution and state university to annually assess the intellectual freedom and viewpoint diversity at that institution using a survey adopted by the State Board of Education (SBE) or the Board of Governors of the State University System (BOG), as applicable.
- Specifies that the SBE, the BOG, FCS institutions, and state universities may not shield students from protected free speech.
- Includes in the definition of protected expressive activities the recording and publishing of video and audio recorded in classrooms, and clarifies that protected expressive activities include the nonconsensual recording and publication of video and audio recorded in outdoor areas of campus and in classrooms.

II. Present Situation:

Operation of State Universities and Florida College System Institutions

The Board of Governors of the State University System (BOG) is required to operate, regulate, control, and be fully responsible for the management of the state university system.¹ The State

¹ Art. IX, s. 7(d), Fla. Const.

Board of Education (SBE) is responsible for supervising the state college system.² Each state university is administered by, and each Florida College System (FCS) institution is governed by, distinct local boards of trustees.³

Constitutional Guarantees of Free Speech and Expression

Speech and religious expression by students and teachers or professors is protected by the First Amendment of the U.S. Constitution and Article I of the State Constitution.⁴ The government or a public actor may nevertheless regulate an individual's freedom of speech or expression within constitutional limits.⁵ The ability to regulate expression on government-owned property is determined, in part, by the characterization of the type of public forum created on government property.⁶

There are three types of public forums: traditional public forums, limited public forums, and closed public forums.⁷

Traditional Public Forum

A "traditional" or "open public forum" is a place with a longstanding tradition of freedom of expression, such as a public park, sidewalk, or street corner.⁸ In an open public forum, the government may only impose content-neutral restrictions on the time, place, and manner of expression.⁹ A school is not an open public forum unless the school or a law has intentionally designated the school as an open public forum.¹⁰

Limited Public Forum

A limited public forum is a venue opened only for certain groups or topics.¹¹ A school creates a limited public forum by permitting outside groups to use a venue for certain subjects or categories of organizations.¹² A public actor may regulate the subject area content or categories of organizations allowed in limited public forums but may not restrict expression based on a favorable or unfavorable viewpoint of a speaker or organization.¹³

Special rules apply to speech in public schools. Educators are entitled to exercise greater control over school-sponsored student expression than over students' personal speech.¹⁴ In this regard, "a

² Art. IX, s. 8(b), Fla. Const.

³ Art. IX, ss. 7(c) and 8(c), Fla. Const.

⁴ U.S. Const. Amend. 1; and Art. I, s. 4, Fla. Const.

⁵ *International Society for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 678 (1992).

⁶ *Id.* at 678-79.

⁷ *Id.*

⁸ *Perry Education Association v. Perry Local Educators Association*, 460 U.S. 37, 45-46 (1992).

⁹ *Perry*, 460 U.S. at 45-46.

¹⁰ *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260 (1988).

¹¹ *Perry*, 460 U.S. at 46.

¹² *Good News Club v. Milford Central School*, 533 U.S. 98, 106-07 (2001) (school's exclusion of Christian children's club from meeting after hours based on its religious nature was unconstitutional viewpoint discrimination because the public school had opened a limited public forum).

¹³ *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 470 (2009).

¹⁴ *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260 (1988).

school may in its capacity as publisher of a school newspaper or producer of a school play disassociate itself, not only from speech that would substantially interfere with its work ... or impinge upon the rights of other students, but also from speech that is, for example, ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences.”¹⁵ On the other hand, “[i]n order for the State in the person of school officials to justify prohibition of a particular expression of opinion, it must be able to show that its action was caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.”¹⁶ A student’s right to free speech and expression of personal speech is protected to the extent it does not “materially and substantially interfere with the requirements of appropriate discipline in the operation of the school and without colliding with the rights of others.”¹⁷

In *Tinker v. Des Moines Independent Community School District*, where several high school students expressed opposition to the Vietnam war by wearing black armbands to school that did not cause disruption or interfere with the rights of others, the students’ suspension by school administration was deemed a violation of the students’ first amendment rights.¹⁸ On the other hand, in *Morse v. Frederick*, a high school principal did not violate a student’s first amendment rights by confiscating a banner the student was waiving at a school event that advocated the use of illegal drugs, when the student could not demonstrate that the banner served a political purpose.¹⁹

Closed Public Forum

A “closed public forum” is a place that is not traditionally open to public expression, such as the teacher’s school mailroom²⁰ or a military base.²¹ Speech restrictions in a closed public forum must only be reasonable and not designed to silence an unfavorable viewpoint.²²

Free Speech on Public University and College Campuses

The United States Supreme Court has recognized that “the college classroom with its surrounding environs is peculiarly the ‘marketplace of ideas.’”²³ Further, “[t]he vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools[,]’ . . . and we break no new constitutional ground in reaffirming this Nation’s dedication to safeguarding academic freedom.”²⁴

¹⁵ *Id.* (internal citations omitted).

¹⁶ *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 509 (1969) (“First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gates.”); *see also Mergens*, 496 U.S. at 230, 250 (1990), and *Chandler v. Siegelman*, 230 F.3d 1313, 1316-1317 (11th Cir. 2001) *cert. denied*, 533 U.S. 916 (2001).

¹⁷ *Id.* at 513.

¹⁸ *Id.* at 503.

¹⁹ *Morse v. Frederick*, 551 U.S. 393 (2007).

²⁰ *Perry*, 460 U.S. 37.

²¹ *Id.*

²² *Id.*

²³ *Healy v. James*, 408 U.S. 169, 180, 187 (1972).

²⁴ *Id.* at 180-81 (quoting *Shelton v. Tucker*, 364 U.S. 479, 487 (1960)).

Notably, there is a distinction between the public expression of adults, which includes most college students, and the public expression of minors, which includes most high school students; college students have wider latitude in expressing themselves in public places than minors have in public schools.²⁵

The Supreme Court has characterized public universities and college campuses generally as limited public fora for purposes of regulating speech. Once the forum is created and opened, the university or college is forbidden from exercising any type of viewpoint-based discrimination.²⁶ In addition, outdoor areas of campus at public institutions of higher education in Florida have been specifically designated by law as traditional public forums.²⁷

Expressive activities protected on campuses of public institutions of higher education under the First Amendment to the United States Constitution and Art. I of the State Constitution include, but are not limited to, any lawful oral or written communication of ideas, including all forms of peaceful assembly, protests, and speeches; distributing literature; carrying signs; circulating petitions; and the recording and publication, including the Internet publication, of video or audio recorded in outdoor areas of campus. Protected expressive activities do not include commercial speech.²⁸

Intellectual Freedom and Viewpoint Diversity in Higher Education

All state universities and FCS institutions in Florida are accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (SACSCOC).²⁹ The SACSCOC requires member institutions to preserve intellectual and academic freedom³⁰ and asserts that “[t]he essential role of institutions of higher education is the pursuit and dissemination of knowledge. Academic freedom respects the dignity and rights of others while fostering intellectual freedom of faculty to teach, research, and publish. Responsible academic freedom enriches the contributions of higher education to society.”³¹

In January 2015, the Committee on Freedom of Expression at the University of Chicago produced a free speech policy statement (referred to as the “Chicago Statement”) that affirmed the centrality of unfettered debate to the university’s mission.³² The statement provided in part:

²⁵ *Bethel School Dist. No. 403 v. Fraser*, 478 U.S. 675, 682-83 (1986).

²⁶ *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995).

²⁷ Section 1004.097(3)(c), F.S.

²⁸ Section 1004.097(3)(a), F.S. Commercial speech is expression related solely to the economic interests of the speaker and its audience. *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n of New York*, 447 U.S. 557, 561 (1980). An advertisement for the services of a for-profit business, such as an advertisement for the purchase of a motor vehicle, may be an example of commercial speech.

²⁹ SACSCOC, *Accredited and Candidate List* (May 2020), available at <https://sacscoc.org/app/uploads/2019/11/Institutionswebmemlist.pdf> (last visited Jan. 15, 2021).

³⁰ Southern Association of Colleges and Schools, *The Principles of Accreditation: Foundations for Quality Enhancement* (Dec. 2017), available at <https://sacscoc.org/app/uploads/2019/08/2018PrinciplesOfAccreditation.pdf>, at principles 6.1 and 6.4.

³¹ Southern Association of Colleges and Schools, *Resource Manual for the Principles of Accreditation: Foundations for Quality Enhancement* (2018), available at https://www.usf.edu/system/documents/system-consolidation/referential_guiding_documents/sacscoc-resource-manual-section-06-faculty.pdf, at 53.

³² University of Chicago, *Report of the Committee on Free Expression* (2015), available at <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf> (last visited Jan. 13, 2021).

[I]t is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

The 2017 National Survey of Student Engagement³³ revealed that most students surveyed (64 percent) felt that postsecondary coursework generally respected the expression of diverse ideas, and that the postsecondary institution generally demonstrated a commitment to diversity (71 percent). This was reflected when specific forms of diversity were considered, such as gender, religious affiliation, or disability status. When political affiliation was considered, only half of students surveyed felt their postsecondary institution was generally supportive of different political ideas.³⁴

The Campus Free Expression Act³⁵ became Florida law in 2018. Under the law, outdoor areas of campus are considered traditional public forums for individuals, organizations, and guest speakers. A public institution of higher education may create and enforce restrictions that are reasonable and content-neutral on time, place, and manner of expression and narrowly tailored to a significant institutional interest. Restrictions must be clear and published and must provide for ample alternative means of expression.³⁶ A public institution of higher education may not otherwise designate any area of campus as a free-speech zone or create policies restricting expressive activities to a particular outdoor area of campus.³⁷ A person whose expressive rights are violated may bring an action against a public institution of higher education in a court of competent jurisdiction to obtain declaratory and injunctive relief, reasonable court costs, and attorney fees.³⁸

In April of 2019, the president of the state university system, all twelve state university presidents, and the chair of the FCS Council of Presidents signed resolutions affirming their commitment to providing for free expression on campus.³⁹

³³ National Survey of Student Engagement, *2017 Topical Module: Inclusiveness and Engagement with Cultural Diversity*, available at https://scholarworks.iu.edu/dspace/bitstream/handle/2022/23392/NSSE_2017_Annual_Results.pdf?sequence=1&isAllowed=y (last visited Jan. 15, 2021).

³⁴ *Id.*

³⁵ Chapter 2018-4, s. 6, L.O.F.

³⁶ Section 1004.097(3)(c), F.S.

³⁷ Section 1004.097(3)(d), F.S.

³⁸ Section 1004.097(4), F.S.

³⁹ William Mattox, The James Madison Institute, *Combatting 'Idea Suppression' How Florida Universities Can Continue their Rise to National Prominence* (2020), https://www.jamesmadison.org/wp-content/uploads/2020/10/PolicyBrief_CampusSpeech_Oct2020_v02.pdf (last visited Jan. 14, 2021); Executive Office of the Governor, *Governor Ron DeSantis Calls on State Colleges and Universities to Adopt Free Speech Resolution* (Apr. 15, 2019), available at <https://www.flgov.com/2019/04/15/governor-ron-desantis-calls-on-state-colleges-and-universities-to-adopt-free-speech-resolution/>.

In 2020, according to the Foundation for Individual Rights in Education (FIRE), policies at only three out of the eleven state universities in Florida that FIRE evaluated did not inhibit free expression.⁴⁰ A national survey revealed, in part, that:⁴¹

- 22 percent of students would have felt very uncomfortable publicly disagreeing with a professor about a controversial topic.
- 29 percent of students felt that the college administration did not make it clear that free speech was protected on campus.
- 60 percent of students had felt they could not express their opinion on a subject because of how students, a professor, or the administration would respond.
- 60 percent of students could recall at least one time during their college experience when they did not share their perspective for fear of how others would respond. Students who identified as Conservative were more likely to report a prior self-censorship incident (72 percent for Conservative students, 55 percent for Liberal students).

Nonconsensual Interception of Communications

Federal law authorizes private individuals to record wire, oral, or electronic communications if one of the parties consents.⁴² Thirty-eight states have laws following the federal one-party consent regime. Eleven states, including Florida, require the consent of all parties recorded.⁴³

Chapter 934, F.S., governs the security of various types of communications in the state, limits the ability to intercept, monitor, and record such communications, and provides criminal penalties⁴⁴ and civil remedies.⁴⁵ Section 934.03, F.S., makes it a third degree felony⁴⁶ to intentionally “intercept” an “oral communication.”⁴⁷ For example, the law prohibits an individual from using an electronic scanning device to monitor private telephone calls.⁴⁸

Family Educational Rights and Privacy Act (FERPA)⁴⁹

With limited exceptions, the FERPA prohibits the distribution of federal funds to an educational agency that has a policy or practice of disclosing the education records of a student without

⁴⁰ The James Madison Institute, *supra* note 39. The three Florida universities with policies that were not found to inhibit free speech include the University of Florida, Florida State University, and the University of North Florida.

⁴¹ College Pulse, et al., *College Free Speech Rankings: What’s the Climate for Free Speech on America’s College Campuses?* (2020), available at <https://reports.collegepulse.com/college-free-speech-rankings>, p. 2, 53-59 (enter name and e-mail in designated fields to download report) (last visited Jan. 20, 2021).

⁴² 18 U.S.C. s. 2511; Rauvin Johl, *Reassessing Wiretap and Eavesdropping Statutes: Making One-Party Consent the Default*, 12 Harv. L. & Pol’y Rev. 177, 179 (2018).

⁴³ *Id.*

⁴⁴ Sections 934.04, 934.21, 934.215, 934.31, and 934.43, F.S.

⁴⁵ Section 934.05, F.S.

⁴⁶ A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

⁴⁷ Section 934.02(3), F.S., defines “intercept” as the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device. Section 934.02(2), F.S., defines “oral communication” as any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation and does not mean any public oral communication uttered at a public meeting or any electronic communication.

⁴⁸ *State v. Mozo*, 655 So. 2d 1115, 1116 (Fla. 1995).

⁴⁹ 20 U.S.C. s. 1232g.

parental or student consent. Section 1002.225, F.S., incorporates the FERPA into Florida law as it applies to public postsecondary educational institutions. The FERPA only applies to records created for an educational purpose and maintained by an educational agency.⁵⁰

III. Effect of Proposed Changes:

CS/SB 264 adds requirements designed to protect the expression of diverse viewpoints at Florida College System (FCS) institutions and state universities. The bill:

- Requires each FCS institution and state university to annually assess the intellectual freedom and viewpoint diversity at that institution using a survey adopted by the State Board of Education (SBE) or the Board of Governors of the State University System (BOG), as applicable.
- Specifies that the SBE, the BOG, FCS institutions, and state universities may not shield students from protected free speech.
- Includes in the definition of protected expressive activities the recording and publishing of video and audio recorded in classrooms, and clarifies that protected expressive activities include the nonconsensual recording and publication of video and audio recorded in outdoor areas of campus and in classrooms.

Operation of State Universities and Florida College System Institutions

The bill amends s. 1001.03, F.S., to require the SBE to select or create an objective, nonpartisan, and statistically valid survey which considers the extent to which competing ideas and perspectives are presented and members of the college community feel free to express their beliefs and viewpoints on campus and in the classroom. The bill amends s. 1001.706, F.S., to require the BOG to select or create a survey for an identical purpose applicable to the university community. The bill also:

- Directs the SBE and the BOG to require each state college or university, as applicable, to conduct an annual assessment of the intellectual freedom and viewpoint diversity at that institution. The bill defines “intellectual freedom and viewpoint diversity” as the exposure of students to, and the encouragement of students’ exploration of, a variety of ideological and political perspectives.
- Requires the SBE and the BOG to annually compile and publish the assessments by September 1 of each year, beginning on September 1, 2022.
- Authorizes the SBE to adopt rules to implement the survey.

To comply with the timeline specified in the bill, the SBE and the BOG will be required to select a survey for use at FCS institutions and state universities during the 2021-2022 academic year. The required surveys on intellectual freedom and viewpoint diversity may assist the SBE and the BOG to identify strengths and weaknesses in public postsecondary institutions’ efforts to protect free speech rights.

⁵⁰ *Id.*

Free Speech on Public University and College Campuses

The bill specifies that the SBE, the BOG, FCS institutions, and state universities may not shield students at FCS institutions or state universities, as applicable, from free speech protected under the First Amendment to the United States Constitution and Art. I of the State Constitution. The bill defines “shield” to mean to limit students’ access to or observation of ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.

The prohibition against shielding students from protected free speech may clarify to students the range of expressive activities protected on the campuses of FCS institutions and state universities.

Nonconsensual Recording and Publication of Video and Audio Recordings

The bill includes in the definition of protected expressive activities the recording and publishing of video and audio recorded in classrooms and clarifies that protected expressive activities include the nonconsensual recording and publication of video and audio recorded in outdoor areas of campus and in classrooms, subject to the privacy protections provided in the Family Educational Rights and Privacy Act (FERPA).⁵¹ The bill makes it clear that the recording and publication of video and audio recorded in outdoor areas of campus and in classrooms would not be a felony under Florida law, even if all the parties to the recording did not consent to be recorded.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

⁵¹ 20 U.S.C. s. 1232g.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1001.03, 1001.706, and 1004.097.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education on January 26, 2021

The committee substitute:

- Extends to Florida College System institutions and state universities the provision of the bill prohibiting the State Board of Education (SBE) and the Board of Governors of the State University System from shielding students from constitutionally protected free speech.
- Defines the term “shield” to mean to limit students’ access to or observation of ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.
- Clarifies that the right provided in the bill to record and publish audio and video recorded in classrooms and outdoor areas of campus is subject to the privacy protections provided by the Family Educational Rights and Privacy Act.
- Authorizes the SBE to adopt rules to implement the survey on intellectual freedom and viewpoint diversity, which is required by the bill.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



793606

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2021	.	
	.	
	.	
	.	

The Committee on Education (Rodrigues) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (19) is added to section 1001.03,
Florida Statutes, to read:

1001.03 Specific powers of State Board of Education.—

(19) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY
ASSESSMENT.—

(a) For the purposes of this subsection, the term:



793606

11 1. "Intellectual freedom and viewpoint diversity" means the
12 exposure of students to, and the encouragement of students'
13 exploration of, a variety of ideological and political
14 perspectives.

15 2. "Shield" means to limit students' access to or
16 observation of ideas and opinions they may find uncomfortable,
17 unwelcome, disagreeable, or offensive.

18 (b) The State Board of Education shall require each Florida
19 College System institution to conduct an annual assessment of
20 the intellectual freedom and viewpoint diversity at that
21 institution. The state board shall select or create an
22 objective, nonpartisan, and statistically valid survey to be
23 used by each institution which considers the extent to which
24 competing ideas and perspectives are presented and members of
25 the college community feel free to express their beliefs and
26 viewpoints on campus and in the classroom. The state board shall
27 annually compile and publish the assessments by September 1 of
28 each year, beginning on September 1, 2022.

29 (c) The state board may not shield students at Florida
30 College System institutions from free speech protected under the
31 First Amendment to the United States Constitution and Art. I of
32 the State Constitution.

33 Section 2. Subsection (13) is added to section 1001.706,
34 Florida Statutes, to read:

35 1001.706 Powers and duties of the Board of Governors.—

36 (13) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY
37 ASSESSMENT.—

38 (a) For the purposes of this subsection, the term:

39 1. "Intellectual freedom and viewpoint diversity" means the



793606

exposure of students to, and the encouragement of students'
exploration of, a variety of ideological and political
perspectives.

2. "Shield" means to limit students' access to or
observation of ideas and opinions they may find uncomfortable,
unwelcome, disagreeable, or offensive.

(b) The Board of Governors shall require each state
university to conduct an annual assessment of the intellectual
freedom and viewpoint diversity at that institution. The Board
of Governors shall select or create an objective, nonpartisan,
and statistically valid survey to be used by each state
university which considers the extent to which competing ideas
and perspectives are presented and members of the university
community feel free to express their beliefs and viewpoints on
campus and in the classroom. The Board of Governors shall
annually compile and publish the assessments by September 1 of
each year, beginning on September 1, 2022.

(c) The Board of Governors may not shield students at state
universities from free speech protected under the First
Amendment to the United States Constitution and Art. I of the
State Constitution.

Section 3. Paragraph (a) of subsection (3) of section
1004.097, Florida Statutes, is amended, and paragraph (f) of
subsection (2) and paragraph (f) of subsection (3) are added to
that section, to read:

1004.097 Free expression on campus.—

(2) DEFINITIONS.—As used in this section, the term:

(f) "Shield" means to limit students' access to or
observation of ideas and opinions they may find uncomfortable,



793606

unwelcome, disagreeable, or offensive.

(3) RIGHT TO FREE-SPEECH ACTIVITIES.—

(a) Expressive activities protected under the First Amendment to the United States Constitution and Art. I of the State Constitution include, but are not limited to, any lawful oral or written communication of ideas, including all forms of peaceful assembly, protests, and speeches; distributing literature; carrying signs; circulating petitions; and, notwithstanding s. 934.03(1), the recording and publication, including the Internet publication, of video or audio recorded in outdoor areas of campus and in classrooms. Expressive activities protected by this section do not include commercial speech.

(f) A Florida College System institution or a state university may not shield students from expressive activities.

Section 4. This act shall take effect July 1, 2021.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to higher education; amending s.
1001.03, F.S.; defining terms; requiring the State
Board of Education to require each Florida College
System institution to conduct an annual assessment
related to intellectual freedom and viewpoint
diversity; providing criteria relating to such
assessment; requiring the State Board of Education to



793606

annually publish such assessments by a specified date;
prohibiting the State Board of Education from
shielding Florida College System institution students
from certain speech; amending s. 1001.706, F.S.;
defining terms; requiring the Board of Governors to
require each state university to conduct an annual
assessment related to intellectual freedom and
viewpoint diversity; providing criteria relating to
such assessment; requiring the Board of Governors to
annually publish such assessments by a specified date;
prohibiting the Board of Governors from shielding
state university students from certain speech;
amending s. 1004.097, F.S.; defining the term
"shield"; allowing students at public postsecondary
institutions to record certain audio and video in
classrooms; prohibiting Florida College System
institutions or state universities from shielding
students from expressive activities; providing an
effective date.



107476

LEGISLATIVE ACTION

Senate	.	House
Comm: FC	.	
01/26/2021	.	
	.	
	.	
	.	

The Committee on Education (Thurston) recommended the following:

Senate Amendment to Amendment (793606) (with title amendment)

Delete lines 10 - 84
and insert:

(a) For the purposes of this subsection, the term "intellectual freedom and viewpoint diversity" means the exposure of students to, and the encouragement of students' exploration of, a variety of ideological and political perspectives.

(b) The State Board of Education may require each Florida



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College System institution to conduct an annual assessment of the intellectual freedom and viewpoint diversity at that institution. If the state board elects to do so, the state board must select or create an objective, nonpartisan, and statistically valid survey to be used by each institution which considers the extent to which competing ideas and perspectives are presented and members of the college community feel free to express their beliefs and viewpoints on campus and in the classroom. The state board shall compile and publish any such assessments by September 1 of each year in which the state board requires institutions to conduct the assessment.

Section 2. Subsection (13) is added to section 1001.706, Florida Statutes, to read:

1001.706 Powers and duties of the Board of Governors.—

(13) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY ASSESSMENT.—

(a) For the purposes of this subsection, the term "intellectual freedom and viewpoint diversity" means the exposure of students to, and the encouragement of students' exploration of, a variety of ideological and political perspectives.

(b) The Board of Governors may require each state university to conduct an annual assessment of the intellectual freedom and viewpoint diversity at that institution. If the Board of Governors elects to do so, the Board of Governors must select or create an objective, nonpartisan, and statistically valid survey to be used by each state university which considers the extent to which competing ideas and perspectives are presented and members of the university community feel free to



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express their beliefs and viewpoints on campus and in the
classroom. The Board of Governors shall compile and publish any
such assessments by September 1 of each year in which the Board
of Governors requires state universities to conduct the
assessment.

Section 3. This act shall take effect July 1, 2021.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 92 - 116

and insert:

1001.03, F.S.; defining the term "intellectual freedom
and viewpoint diversity"; authorizing the State Board
of Education to require each Florida College System
institution to conduct an annual assessment related to
intellectual freedom and viewpoint diversity;
providing criteria relating to such assessment;
requiring the State Board of Education to publish any
such assessment by a specified date; amending s.

1001.706, F.S.; defining the term "intellectual
freedom and viewpoint diversity"; authorizing the
Board of Governors to require each state university to
conduct an annual assessment related to intellectual
freedom and viewpoint diversity; providing criteria
relating to such assessment; requiring the Board of
Governors to publish any such assessment by a
specified date; providing an effective date.



194994

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2021	.	
	.	
	.	
	.	

The Committee on Education (Rodrigues) recommended the following:

Senate Amendment to Amendment (793606) (with title amendment)

Delete lines 28 - 79

and insert:

each year, beginning on September 1, 2022. The state board may adopt rules to implement this paragraph.

(c) The state board may not shield students at Florida College System institutions from free speech protected under the First Amendment to the United States Constitution and Art. I of



194994

the State Constitution.

Section 2. Subsection (13) is added to section 1001.706, Florida Statutes, to read:

1001.706 Powers and duties of the Board of Governors.—

(13) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY ASSESSMENT.—

(a) For the purposes of this subsection, the term:

1. "Intellectual freedom and viewpoint diversity" means the exposure of students to, and the encouragement of students' exploration of, a variety of ideological and political perspectives.

2. "Shield" means to limit students' access to or observation of ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.

(b) The Board of Governors shall require each state university to conduct an annual assessment of the intellectual freedom and viewpoint diversity at that institution. The Board of Governors shall select or create an objective, nonpartisan, and statistically valid survey to be used by each state university which considers the extent to which competing ideas and perspectives are presented and members of the university community feel free to express their beliefs and viewpoints on campus and in the classroom. The Board of Governors shall annually compile and publish the assessments by September 1 of each year, beginning on September 1, 2022.

(c) The Board of Governors may not shield students at state universities from free speech protected under the First Amendment to the United States Constitution and Art. I of the State Constitution.



194994

Section 3. Paragraph (a) of subsection (3) of section 1004.097, Florida Statutes, is amended, and paragraph (f) of subsection (2) and paragraph (f) of subsection (3) are added to that section, to read:

1004.097 Free expression on campus.—

(2) DEFINITIONS.—As used in this section, the term:

(f) “Shield” means to limit students’ access to or observation of ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.

(3) RIGHT TO FREE-SPEECH ACTIVITIES.—

(a) Expressive activities protected under the First Amendment to the United States Constitution and Art. I of the State Constitution include, but are not limited to, any lawful oral or written communication of ideas, including all forms of peaceful assembly, protests, and speeches; distributing literature; carrying signs; circulating petitions; and, not withstanding s. 934.03(1), the recording and publication, including the Internet publication, of video or audio recorded in outdoor areas of campus and in classrooms, subject to the protections provided in the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g and ss. 1002.22 and 1002.225.

Expressive

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 99 - 113

and insert:

authorizing the State Board of Education to adopt
rules; prohibiting the State Board of Education from



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69 shielding Florida College System institution students
70 from certain speech; amending s. 1001.706, F.S.;
71 defining terms; requiring the Board of Governors to
72 require each state university to conduct an annual
73 assessment related to intellectual freedom and
74 viewpoint diversity; providing criteria relating to
75 such assessment; requiring the Board of Governors to
76 annually publish such assessments by a specified date;
77 prohibiting the Board of Governors from shielding
78 state university students from certain speech;
79 amending s. 1004.097, F.S.; defining the term
80 "shield"; allowing students at public postsecondary
81 institutions to record certain audio and video in
82 classrooms, in classrooms, subject to certain federal
83 and state provisions; prohibiting Florida College
84 System

By Senator Rodrigues

27-00308A-21

2021264__

A bill to be entitled

An act relating to higher education; amending s. 1001.03, F.S.; defining the term "intellectual freedom and viewpoint diversity"; requiring the State Board of Education to require each Florida College System institution to conduct an annual assessment related to intellectual freedom and viewpoint diversity at that institution; providing criteria relating to such assessment; prohibiting the State Board of Education from shielding Florida College System institution students from certain speech; amending s. 1001.706, F.S.; requiring the Board of Governors to require each state university to conduct an annual assessment related to intellectual freedom and viewpoint diversity at that institution; providing criteria relating to such assessment; prohibiting the Board of Governors from shielding state university students from certain speech; amending s. 1004.097, F.S.; allowing students at public postsecondary institutions to record certain audio and video in classrooms; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (19) is added to section 1001.03, Florida Statutes, to read:

1001.03 Specific powers of State Board of Education.—

(19) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY

ASSESSMENT.—

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27-00308A-21

2021264__

(a) For the purposes of this subsection, the term "intellectual freedom and viewpoint diversity" means the exposure of students to, and the encouragement of students' exploration of, a variety of ideological and political perspectives.

(b) The State Board of Education shall require each Florida College System institution to conduct an annual assessment of the intellectual freedom and viewpoint diversity at that institution. The State Board of Education shall select or create an objective, nonpartisan, and statistically valid survey to be used by each institution which considers the extent to which competing ideas and perspectives are presented and members of the college community feel free to express their beliefs and viewpoints on campus and in the classroom. The State Board of Education shall annually compile and publish the assessments by September 1 of each year, beginning on September 1, 2022.

(c) The State Board of Education may not shield students at Florida College System institutions from free speech protected under the First Amendment to the United States Constitution and Art. I of the State Constitution

Section 2. Subsection (13) is added to section 1001.706, Florida Statutes, to read:

1001.706 Powers and duties of the Board of Governors.—

(13) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY ASSESSMENT.—

(a) The Board of Governors shall require each state university to conduct an annual assessment of the intellectual freedom and viewpoint diversity, as defined in s. 1001.03(19)(a), at that institution. The Board of Governors

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27-00308A-21

2021264__

59 shall select or create an objective, nonpartisan, and
60 statistically valid survey to be used by each state university
61 which considers the extent to which competing ideas and
62 perspectives are presented and members of the university
63 community feel free to express their beliefs and viewpoints on
64 campus and in the classroom. The Board of Governors shall
65 annually compile and publish the assessments by September 1 of
66 each year, beginning on September 1, 2022.

67 (b) The Board of Governors may not shield students at state
68 universities from free speech protected under the First
69 Amendment to the United States Constitution and Art. I of the
70 State Constitution.

71 Section 3. Paragraph (a) of subsection (3) of section
72 1004.097, Florida Statutes, is amended to read:

73 1004.097 Free expression on campus.—

74 (3) RIGHT TO FREE-SPEECH ACTIVITIES.—

75 (a) Expressive activities protected under the First
76 Amendment to the United States Constitution and Art. I of the
77 State Constitution include, but are not limited to, any lawful
78 oral or written communication of ideas, including all forms of
79 peaceful assembly, protests, and speeches; distributing
80 literature; carrying signs; circulating petitions; and, not
81 withstanding s. 934.03(1), the recording and publication,
82 including the Internet publication, of video or audio recorded
83 in outdoor areas of campus and in classrooms. Expressive
84 activities protected by this section do not include commercial
85 speech.

86 Section 4. This act shall take effect July 1, 2021.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

264
Bill Number (if applicable)

Meeting Date

Topic _____

Amendment Barcode (if applicable)

Name MATTHEW LATA

Job Title PROFESSOR

Address 3556 GARDENVIEW

Phone 8503221301

TALLY 32309
City State Zip

Email matthlata@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing United Faculty of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-26

Meeting Date

SB 264

Bill Number (if applicable)

Topic HIGHER ED SURVEY

Amendment Barcode (if applicable)

Name WILLIAM MATTOX

Job Title DIRECTOR, STAN MARSHALL CENTER @ JAMES MADISON INSTITUTE

Address 100 N. DUVAL ST

Phone (850) 386-3131

Street

TLLH

City

FL

State

Zip

Email bmattox@jamesmadison.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing JAMES MADISON INSTITUTE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/21
Meeting Date

264
Bill Number (if applicable)

Topic Sb 264

Amendment Barcode (if applicable)

Name Yale Glenick

Job Title Attorney / lobbyist

Address 110 S. Adams St

Phone 850-228-2336

Tallahassee
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FEA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/21

Meeting Date

SB 264

Bill Number (if applicable)

Topic

Higher Education

Amendment Barcode (if applicable)

Name

Benjamin Serber

Job Title

President, FSU-GAU

Address

1925 Nena Hills Dr.

Phone

201-588-5421

Street

Tallahassee

FL

32304

City

State

Zip

Email

president@fsugau.org

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

FSU Graduate Assistants United

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/26/21

Meeting Date

264

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Krystal Williams

Job Title Graduate Assistant

Address

Street

Phone 850.345.9866

City

State

Zip

Email Krystalwilliams@hotmail.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FAMU Graduate Assistants United

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 220

INTRODUCER: Senators Brandes and Rodrigues

SUBJECT: Public Records and Public Meetings

DATE: January 25, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Westmark	Bouck	ED	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 220 makes confidential and exempt from public disclosure requirements any personal identifying information of an applicant for the position of president of a state university or Florida College System (FCS) institution.

The bill provides that the personal identifying information of an applicant included in a final group of applicants for president is no longer confidential and exempt from public records requirements at least 21 days before either an interview of an applicant or final action on the offer of employment.

The bill also exempts from public meeting requirements any portion of a meeting held for the purpose of identifying or vetting applicants for president of a state university or FCS institution, including any portion of a meeting that would disclose personal identifying information of such applicants. However, the bill specifies that the meeting exemption does not apply to any portion of a meeting held for the purpose of establishing qualifications for the position or establishing any compensation framework to be offered to an applicant.

The bill provides that the exemption is subject to the Open Government Sunshine Review Act, and so is repealed on October 2, 2026, unless saved from repeal by the Legislature.

The bill has no significant fiscal impact on state universities and FCS institutions.

The bill takes effect July 1, 2021.

II. Present Situation:

Access to Public Records – Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, Florida Statutes (F.S.), provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the

¹ Art. I, s. 24(a), Fla. Const.

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2020-2022) and Rule 14.1, *Rules of the Florida House of Representatives* (2020-2022).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public records” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹⁴ Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹⁵

Open Meetings Laws

The Florida Constitution provides that the public has a right to access governmental meetings.¹⁶ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.¹⁷ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.¹⁸

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ Art. I, s. 24(c), Fla. Const.

¹¹ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹² *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁴ *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁵ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁶ Art. I, s. 24(b), Fla. Const.

¹⁷ *Id.*

¹⁸ *Id.* Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the “Government in the Sunshine Law,”¹⁹ or the “Sunshine Law,”²⁰ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.²¹ The board or commission must provide the public reasonable notice of such meetings.²² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.²³ Minutes of a public meeting must be promptly recorded and open to public inspection.²⁴ Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.²⁵ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁶

The Legislature may create an exemption to open meetings requirements by passing a general law by at least a two-thirds vote of each house of the Legislature.²⁷ The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.²⁸ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.²⁹

The Open Government Sunset Review Act (Act) prescribes a legislative review process for newly created or substantially amended public records exemptions,³⁰ with specified exceptions.³¹ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.³² The Act provides that a public records exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.³³

¹⁹ *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

²⁰ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

²¹ Section 286.011(1)-(2), F.S.

²² *Id.*

²³ Section 286.011(6), F.S.

²⁴ Section 286.011(2), F.S.

²⁵ Section 286.011(1), F.S.

²⁶ Section 286.011(3), F.S.

²⁷ Art. I, s. 24(c), Fla. Const.

²⁸ *Id.*

²⁹ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

³⁰ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

³¹ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

³² Section 119.15(3), F.S.

³³ Section 119.15(6)(b), F.S.

Open Government Sunset Review Act

The Open Government Sunset Review Act³⁴ (Act) prescribes a legislative review process for newly created or substantially amended³⁵ public records or open meetings exemptions, with specified exceptions.³⁶ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.³⁷

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.³⁸ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;³⁹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;⁴⁰ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.⁴¹

The Act also requires specified questions to be considered during the review process.⁴² In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.⁴³ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote

³⁴ Section 119.15, F.S.

³⁵ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

³⁶ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

³⁷ Section 119.15(3), F.S.

³⁸ Section 119.15(6)(b), F.S.

³⁹ Section 119.15(6)(b)1., F.S.

⁴⁰ Section 119.15(6)(b)2., F.S.

⁴¹ Section 119.15(6)(b)3., F.S.

⁴² Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

⁴³ See generally s. 119.15, F.S.

for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.⁴⁴

State University System and Florida College System Governance

The State University System is composed of all public state universities.⁴⁵ The Board of Governors (BOG) is required to operate, regulate, control, and be fully responsible for the management of the whole university system.⁴⁶ Each state university is governed by a local board of trustees, which is subject to public record and open meetings laws.⁴⁷ The BOG establishes the powers and duties of the boards of trustees and may delegate its constitutional or statutory powers and duties to the boards of trustees as its designee.⁴⁸ The BOG establishes the personnel system for all state university employees and confirms the selection and reappointment of presidents by state university boards of trustees.⁴⁹

The Florida College System (FCS) is composed of public community and state colleges.⁵⁰ FCS institutions are supervised by the State Board of Education (SBE),⁵¹ which establishes standards and guidelines for FCS institutions.⁵² A local board of trustees governs each FCS institution.⁵³

State University System and Florida College System Presidential Searches

Each state university board of trustees selects its university president, subject to confirmation of the candidate by the BOG and in accordance with BOG regulations. To locate qualified applicants, a presidential search committee is appointed to make recommendations to the full university board of trustees.⁵⁴

BOG regulation specifies criteria to ensure that the search process is transparent, robust, and designed to attract highly qualified individuals.⁵⁵ Criteria include requirements that a search firm or consultant a search committee retains must be familiar, or demonstrate its ability to become familiar, with Florida's Sunshine laws,⁵⁶ and that the search committee maintain for purposes of transparency a webpage that includes search committee notices, agendas, and meetings; applicant lists; and means to provide input.⁵⁷

⁴⁴ Section 119.15(7), F.S.

⁴⁵ Art. IX, s. 7(b), Fla. Const. The State University System is made up of 12 state universities, specified in s. 1000.21(6), F.S.

⁴⁶ Art. IX, s. 7(d), Fla. Const. *See also* ss. 20.155(4)(a), 1001.70(3), 1001.705(2), and 1001.706(2)(a), F.S.

⁴⁷ Art. IX, s. 7(b)-(c), Fla. Const. *See also* s. 1001.71(1), F.S.

⁴⁸ Art. IX, s. 7(c), Fla. Const. *see also* s. 1001.706(2)(b), F.S.

⁴⁹ Sections 1001.705(2)(k) and 1001.706(6)(a), F.S.

⁵⁰ Art. IX, s. 8(b), Fla. Const. The Florida College System is made up of 28 community and state colleges specified in s. 1000.21(3), F.S. Such institutions constitute political subdivisions of the state operated by boards of trustees. *See* s. 1004.67 and ss. 1001.61-1001.64, F.S.

⁵¹ Art. IX, s. 8(d), Fla. Const.

⁵² Section 20.15(1), (2), and (5); *see also* s. 1001.02(1) and (6), F.S.

⁵³ Art. IX, s. 8(b), Fla. Const. *See also* ss. 1001.60(3) and 1001.64(2), F.S.

⁵⁴ Board of Governors (BOG) Regulation 1.001(5)(c).

⁵⁵ BOG Regulation 1.002(1).

⁵⁶ BOG Regulation 1.002(1)(b)ii.

⁵⁷ BOG Regulation 1.002(1)(c)i.

Each FCS institution board of trustees is authorized to appoint the president of the FCS institution. The board of trustees is authorized to appoint a search committee to assist in the process.⁵⁸ Each board of trustees is required to notify the SBE of the appointment of a president immediately upon such action.⁵⁹

Information obtained by a search committee or consultant, including applications and other information gathered by a committee or consultant regarding applicants, must be made available for copying and inspection upon request. In addition, any meetings associated with the search process are open to the public.⁶⁰

III. Effect of Proposed Changes:

SB 220 creates s. 1004.098, F.S., to establish an exemption from public records and public meetings requirements regarding a presidential search at a state university or Florida College System (FCS) institution.

The bill specifies that any personal identifying information of an applicant for president of a state university or FCS institution is confidential and exempt from public records requirements.

The bill provides that the personal identifying information of an applicant included in a final group of applicants for president of a state university or FCS institution is no longer confidential and exempt at least 21 days before the date of a meeting at which an interview of an applicant will be conducted or at which final action or a vote is to be taken on the offer of the employment of an applicant as president.

The bill exempts from public meetings requirements any portion of a meeting held for the purpose of identifying or vetting applicants for president of a state university or FCS institution, including any portion of a meeting that would disclose personal identifying information of such applicants. The bill provides that a complete recording must be made of any portion of a meeting that is closed and any closed portion of such meeting may not be held off the record. The recording of the closed portion of a meeting is exempt from public records requirements.

The bill specifies that the public meeting exemption does not apply to:

- Any portion of a meeting held for the purpose of establishing qualifications for the position or establishing any compensation framework to be offered to an applicant for president of a state university or FCS institution.
- Any meeting held after a final group of applicants for president of a state university or FCS institution has been established at which an interview of an applicant is conducted or at which final action or a vote is to be taken on the offer of the employment of an applicant as president.

⁵⁸ Section 1001.64(19), F.S.

⁵⁹ Rule 6A-14.026, F.A.C.

⁶⁰ FCS institutions and state universities are considered state agencies, subject to public records and public meetings laws. See *Wood v. Marston*, 442 So. 2d 934, 938 (Fla. 1983) (holding that a University of Florida screening committee was subject to Florida's Sunshine Law); *Rhea v. District Bd. Of Trustees of Santa Fe College*, 109 So. 3d 851 at 855, n. 1 (Fla. 1st DCA 2013) (noting that Santa Fe College, as part of the Florida College System, is a state agency having a duty to provide access to public records).

The exemption from public records and public meetings established in the bill is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

Pursuant to a requirement in the State Constitution, the bill sets forth the public necessity justifying the exemption.⁶¹ The bill asserts that applicants for president who are currently employed could jeopardize their current positions if it were known that they were seeking employment elsewhere. Further, the bill specifies that an exemption is necessary to allow a presidential search committee to access the most experienced and desirable pool of qualified applicants from which to fill the position of president.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for personal identifying information about applicants for the position of president at a state university or Florida College System (FCS) institution, thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section two of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect personal identifying information of applicants for the position of president of a state university or FCS institution. This bill exempts only personal identifying information of such individuals, and portions of meetings where

⁶¹ Art. I, s. 24(c), Fla. Const.

such information is discussed, from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector may continue to be subject to the costs associated with an agency making redactions in response to a public records request.

C. Government Sector Impact:

Governmental agencies may incur costs related to the redaction of records in responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 1004.098 of the Florida Statutes.

This bill creates an unnumbered section of law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Brandes

24-00341-21

2021220__

A bill to be entitled

An act relating to public records and public meetings; creating s. 1004.098, F.S.; providing an exemption from public records requirements for any personal identifying information of an applicant for president of a state university or a Florida College System institution; specifying that personal identifying information of applicants who are in the final group of applicants is no longer confidential and exempt at a time certain; providing an exemption from public meeting requirements for any portion of a meeting held for the purpose of identifying or vetting applicants for president of a state university or a Florida College System institution, including any portion of a meeting which would disclose identifying information of such applicants; requiring that a recording be made of any portion of a closed meeting which would disclose identifying information of such applicants; providing that no portion of a closed meeting may be held off the record; providing that the recording of any closed portion of a meeting is exempt from public records requirements; specifying that certain meetings are not exempt from public meeting requirements; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

24-00341-21

2021220__

Section 1. Section 1004.098, Florida Statutes, is created to read:

1004.098 Applicants for president of a state university or Florida College System institution; public records exemption; public meetings exemption.-

(1) (a) Any personal identifying information of an applicant for president of a state university or a Florida College System institution is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Notwithstanding paragraph (a), the personal identifying information of an applicant included in the final group of applicants for president of a state university or a Florida College System institution is no longer confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution during the period beginning 21 days before the date of a meeting at which an interview of an applicant will be conducted or at which final action or a vote is to be taken on the offer of the employment of an applicant as president.

(2) (a) Any portion of a meeting held for the purpose of identifying or vetting applicants for president of a state university or a Florida College System institution, including any portion of a meeting which would disclose personal identifying information of such applicants, is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

(b) A complete recording must be made of any portion of a meeting which is closed pursuant to paragraph (a), and any closed portion of such meeting may not be held off the record. The recording of the closed portion of a meeting is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

24-00341-21

2021220

(c) The public meeting exemption provided in paragraph (a) does not apply to:

1. Any portion of a meeting held for the purpose of establishing qualifications for the position or establishing any compensation framework to be offered to an applicant for president of a state university or a Florida College System institution.

2. Any meeting that is held after a final group of applicants for president of a state university or a Florida College System institution has been established and at which an interview of an applicant is conducted or at which final action or a vote is to be taken on the offer of the employment of an applicant as president.

(3) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that any personal identifying information of an applicant for president of a state university or a Florida College System institution be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature also finds that it is a public necessity that any portion of a meeting held for the purpose of identifying or vetting applicants for president of a state university or a Florida College System institution, including any portion of a meeting which would disclose personal identifying information of such applicants, be made exempt from s. 286.011, Florida Statutes, and s. 24(b), Article I of the

24-00341-21

2021220

State Constitution, and that the recording of such meeting be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The task of filling the position of president of a state university or a Florida College System institution is often conducted by an executive search committee. Many, if not most, applicants for such a position are currently employed at another job at the time they apply and could jeopardize their current positions if it were to become known that they were seeking employment elsewhere. These exemptions from public records and public meeting requirements are needed to ensure that such a search committee can avail itself of the most experienced and desirable pool of qualified applicants from which to fill the position of president of a state university or a Florida College System institution. If potential applicants fear the possibility of losing their current jobs as a consequence of attempting to progress along their chosen career path or simply seeking different and more rewarding employment, failure to have these safeguards in place could have a chilling effect on the number and quality of applicants available to fill the position of president of a state university or a Florida College System institution.

Section 3. This act shall take effect July 1, 2021.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Jan 26, 2021
Meeting Date

SB 220
Bill Number (if applicable)

Topic Public Record Exemption for University
Amendment Barcode (if applicable)

Name Pamela C. Marsh President Applicants

Job Title President, First Amendment Foundation

Address 317 E. Park Ave., Lower Level Phone 850/224-4555
Street

Tallahassee, FL 32301 Email pmarsh@floridafaf.org
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing First Amendment Foundation, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record of this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Jan 26th 2021
Meeting Date

SB 220
Bill Number (if applicable)

Topic Public Records Protection
Amendment Barcode (if applicable)

Name David Senglar

Job Title STATESMAN CONCERNED SENIOR CITIZEN

Address 66 WINTERGREEN DR Phone

Street

Fort Lauderdale FL 33473 Email golferdave1955@gmail.com

City State Zip

Speaking: ☒ For ☐ Against ☒ Information Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Self & Citizen of Florida

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/26
Meeting Date

SB 220
Bill Number (if applicable)

Topic Sunshine Law

Amendment Barcode (if applicable)

Name Dr. Rich Templin

Job Title _____

Address 135 S. Monroe
Street

Phone 850 - 229 - 6926

Tallahassee FL 32301
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida AFL-CIO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/21

Meeting Date

SB 220

Bill Number (if applicable)

Topic SB 220

Amendment Barcode (if applicable)

Name Yale Olenick

Job Title Attorney / lobbyist

Address 110 S. Adams
Street

Phone 850-228-2396

Tallahassee
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FEA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

220
Bill Number (if applicable)

Meeting Date

Topic _____

Amendment Barcode (if applicable)

Name Matthew Lata

Job Title Professor

Address 3556 GARDENVIEW
Street

Phone 850 322 1361

Tally 32309
City State Zip

Email mtlata@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing United Faculty of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/21

Meeting Date

SB 220

Bill Number (if applicable)

Topic Public Records Exemption

Amendment Barcode (if applicable)

Name Benjamin Serber

Job Title FSU-GAU President

Address 1925 Nena Hills Dr.

Phone 201-588-5421

Street

Tallahassee

FL

32304

City

State

Zip

Email president@fsugau.org

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FSU Graduate Assistants United

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

Florida Department of Economic Opportunity

Senate Education Presentation

Adrienne Johnston, Division of Workforce Services

January 20, 2021



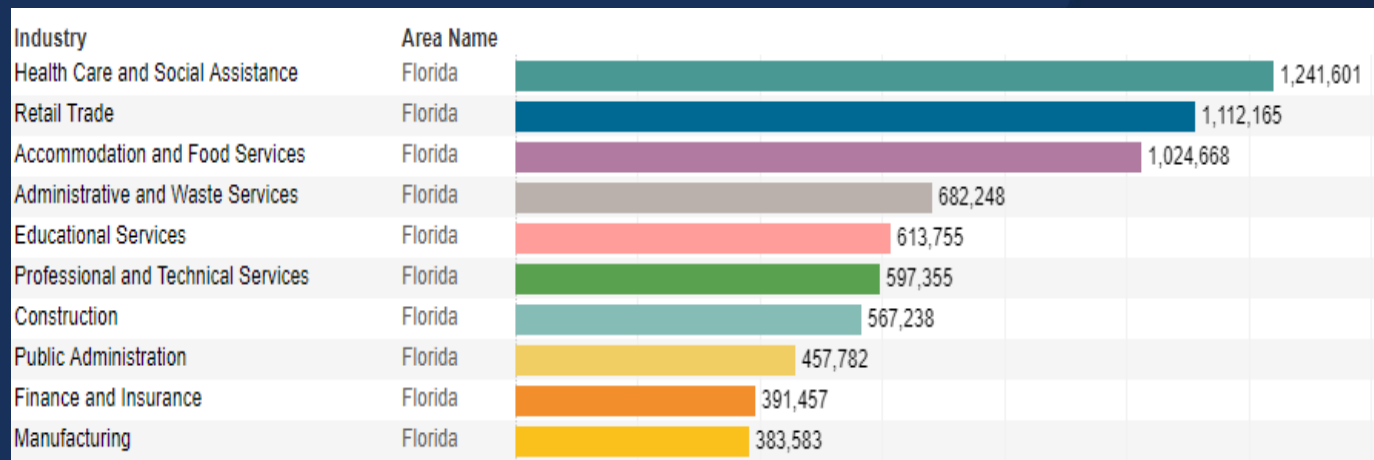
Bureau of Workforce Statistics and Economic Research

**Our mission is to produce, analyze and deliver labor statistics
to improve economic decision-making**

- Employment data are the state's most important economic indicators.
- Data collected under Federal/State Cooperative Statistical Programs.
- Comparable nationwide for all states, counties and metro areas.
- Collected through a combination of employer surveys, modeling and administrative records.

**Thanks to Florida employers, without them we would not be able to
provide data.**

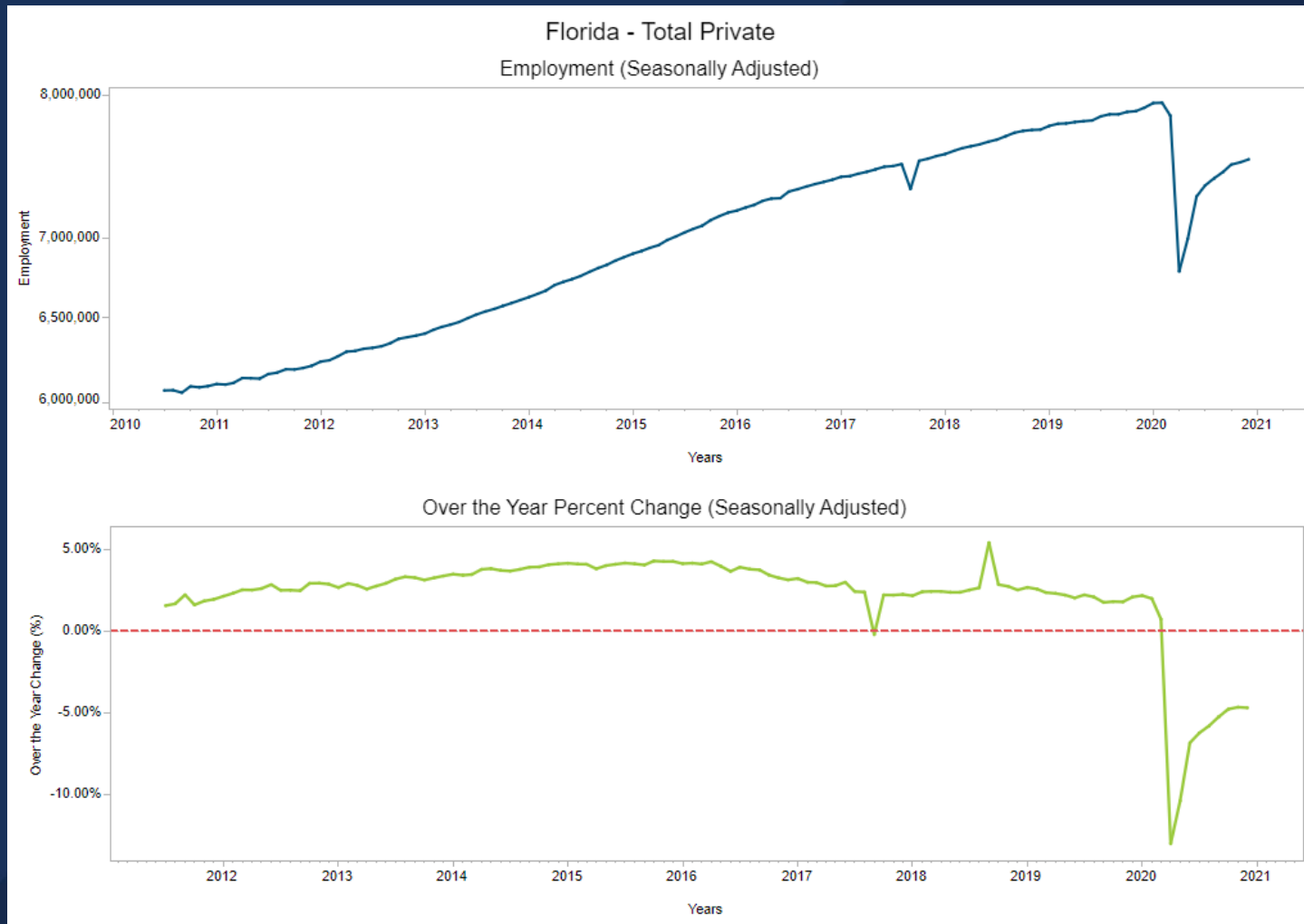
Quarterly Census of Employment and Wages (QCEW)



Did you know...
In 2009 Health Care and Social Assistance passed Retail Trade as the largest industry in Florida by employment?

- Employment and wages by industry, size and local area.
- Available statewide, metropolitan statistical areas (MSAs), counties and workforce regions.
- Serves as the foundation for most labor market and economic data.

Current Employment Statistics (CES)



- Monthly nonagricultural employment and earnings by industry and metro area.
- One of the most timely leading indicators of current economic conditions.

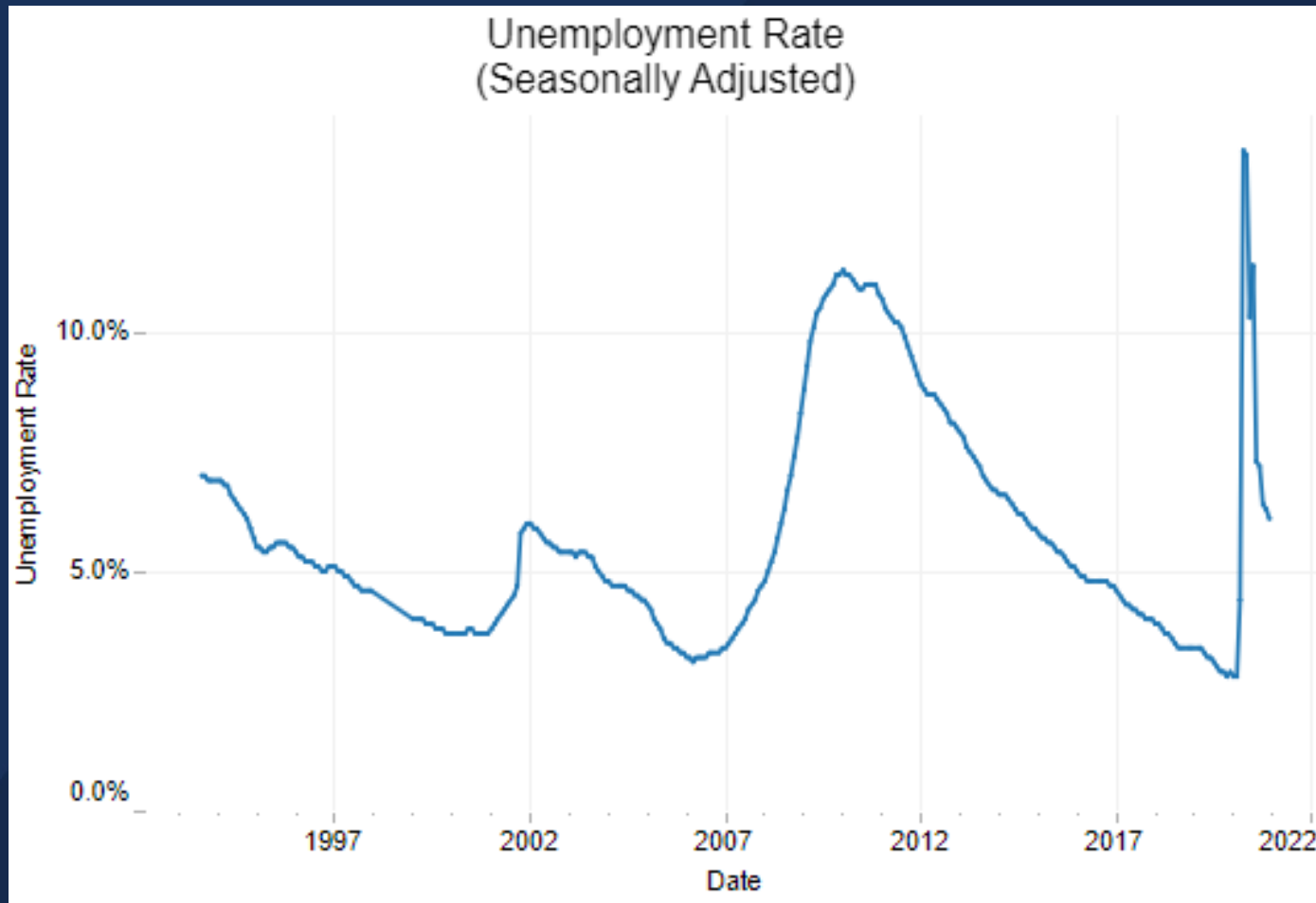
Did you know...

Florida added 21,100 private sector jobs between November to December 2020.

Local Area Unemployment Statistics (LAUS)

Did you know...

Florida's unemployment rate was 6.1 percent in December 2020.



This program answers the questions:

- Who is in the labor force?
- How many people in each area are unemployed?
- What is the labor force participation rate?

Occupational Employment Statistics (OES)

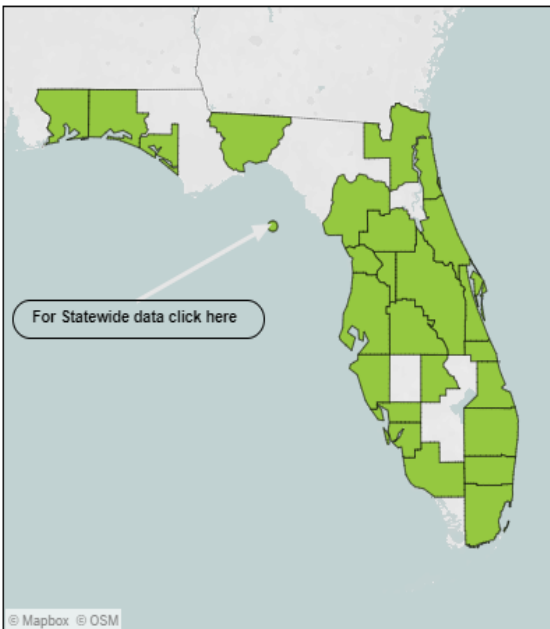
Did you know...
Registered Nurses is one of the top 10 largest occupations in Florida and has an average entry wage of over \$24/hour?

Select Wage Rate Type
Hourly

Select Occupational Group
(All)

Select Industry
10 - Total, All Industries

Select Region



© Mapbox © OSM

Select a region on the map to update the table to the left.
Hovering over the table data will highlight the area selected.

Note
- "Top 10" is based on the value the table is sorted by.
- The table is sorted by median wage by default.
- Sectors without data either do not have data based on applied filters or are suppressed due to confidentiality.

Top 10 Occupations in Florida Group: All Industry: 10 - Total, All Industries

OccTitle	Emplm.	Median Wage	Entry Wage	Mean Wage	Experienced Wage
Retail Salespersons	325,640	\$11.40	\$9.48	\$13.34	\$15.28
Customer Service Representatives	267,430	\$15.56	\$11.62	\$16.64	\$19.15
Fast Food and Counter Workers	242,300	\$9.63	\$9.06	\$10.40	\$11.07
Cashiers	229,830	\$10.58	\$9.24	\$11.08	\$12.00
Waiters and Waitresses	208,360	\$9.56	\$9.05	\$12.66	\$14.47
Office Clerks, General	191,650	\$15.23	\$10.77	\$16.51	\$19.38
Registered Nurses	181,670	\$31.65	\$24.57	\$32.50	\$36.47
Laborers and Freight, Stock, and Material Movers, Hand	156,120	\$13.07	\$10.35	\$14.59	\$16.72
Secretaries & Administrative Assistants, Except Legal, Medical, & Executive	129,470	\$16.61	\$11.87	\$17.34	\$20.07
Janitors and Cleaners, Except Maids and Housekeeping Cleaners	116,830	\$11.47	\$9.68	\$12.77	\$14.32

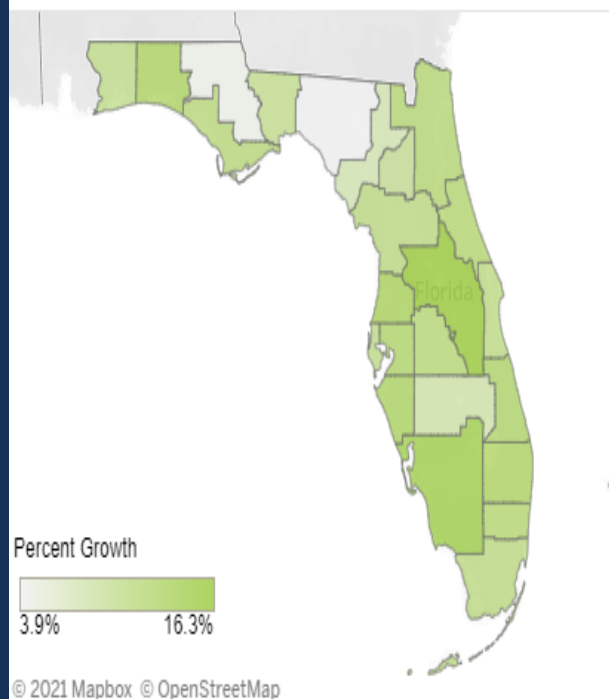
Source
Florida Department of Economic Opportunity, Bureau of Workforce Statistics and Economic Research, Occupational Employment Statistics and Wages Program, 2019.

Measures of Occupational Demand

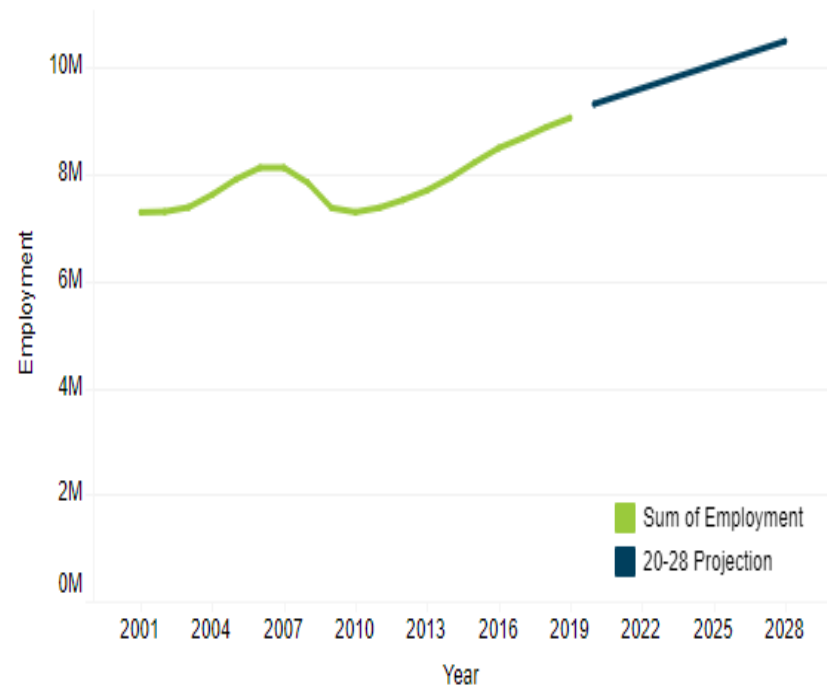
- Employment Projections
 - Long-Term Projections:
 - Eight Years, for career planning
 - Short-Term Projections:
 - Two Years, to forecast demand after a PSAV/Associate program
 - Mid-Term Projections:
 - Between Two Years and Eight Years
 - Job Openings and Labor Turnover Survey (JOLTS)
 - Online Job Advertisements
-

Employment Projections

Projected Employment Growth by Workforce Region



Employment History for 000000-Total, All Industries in Florida



Did you know...
Florida has a Projected Growth of 12.6 percent for All Industries.

- Industry Employment Projections:
 - National industry projections are a key input
- Occupational Employment Projections:
 - Change factors account for changing staffing needs for each industry
- Separations estimates account for openings due to retirements and career changes

Online Job Advertisements



FLORIDA ONLINE JOB DEMAND TOOL

Statewide Overview of Occupations and Employers

Select Category

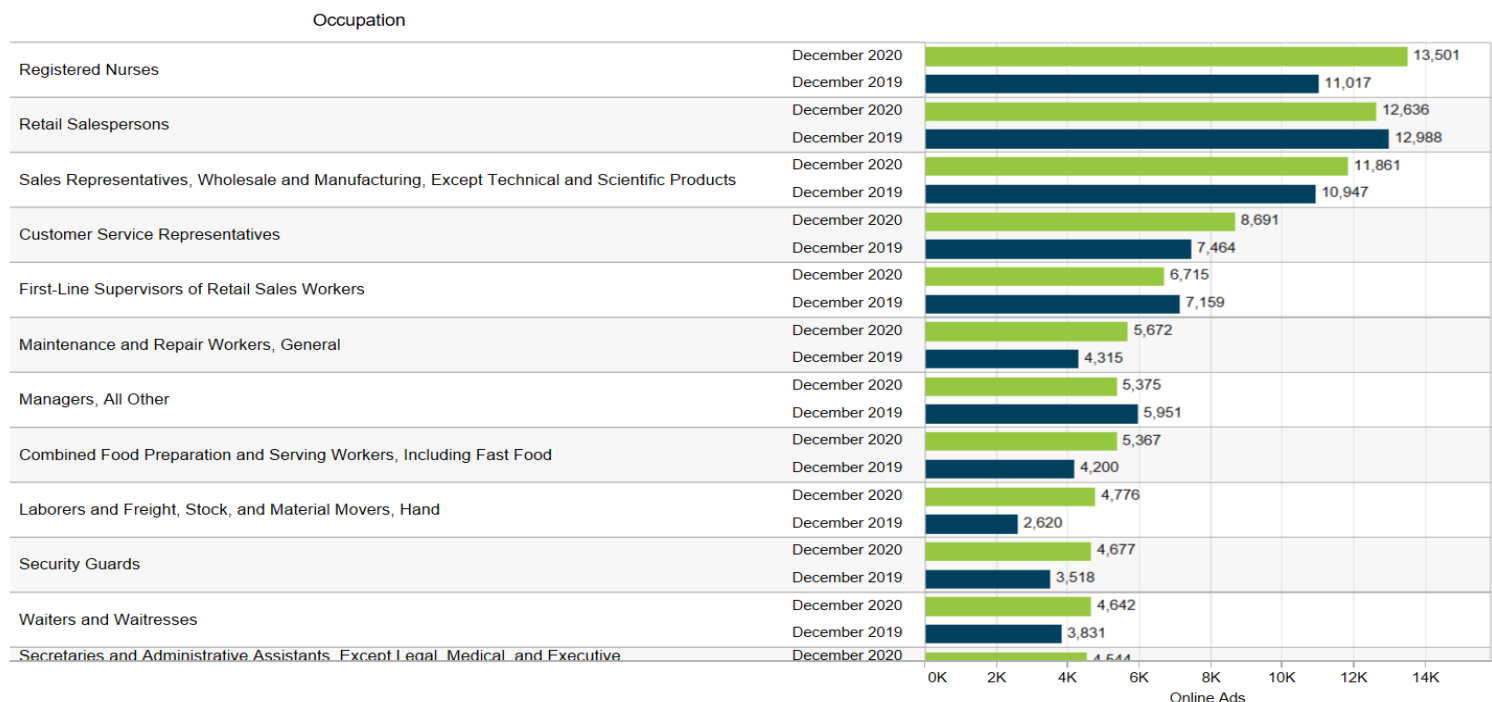
- ☒ All Occupations
☐ STEM

Next page >>

TOTAL ONLINE ADS

December 2020	November 2020	December 2019	Over the Month Change	Over the Month Percent Change	Over the Year Change	Over the Year Percent Change
370,983	359,184	339,616	11,799	3.3%	31,367	9.2%

TOP 20 ADVERTISED OCCUPATIONS



Statewide Demand Occupation List

2020-21 Florida Statewide Demand Occupations

Post-Secondary Adult Vocational Certificate or College

Credit Certificate/Associate Degree

Sorted by Occupational Title

SOC Code	HSW	Occupational Title	Annual Percent Grow	Annual Opening	2018 Hourly Wage		FLDOE Training Code	In EFI Targeted Industry	STEM Occupation	New to List
			↓	↓	Meal	Entry				
15-1122	HSHW	Information Security Analysts	3.36	578	44.21	27.96	3	Yes	Yes	
15-1132	HSHW	Software Developers, Applications	3.32	4,091	45.97	29.67	4	Yes	Yes	
31-9092		Medical Assistants	3.19	8,491	15.80	12.58	3	Yes	No	Yes
31-2021	HSHW	Physical Therapist Assistants	2.97	917	29.64	22.61	4	Yes	No	
29-2032	HSHW	Diagnostic Medical Sonographers	2.70	501	31.65	24.44	3	Yes	No	Yes
29-1126	HSHW	Respiratory Therapists	2.65	755	27.86	22.76	4	Yes	Yes	
31-9097		Phlebotomists	2.32	1,151	15.52	12.45	3	Yes	No	Yes
43-6013		Medical Secretaries	2.22	3,199	16.11	12.54	3	Yes	No	
23-2011	HSHW	Paralegals and Legal Assistants	2.16	3,335	24.10	15.87	3	Yes	No	
29-2021	HSHW	Dental Hygienists	2.14	1,028	30.80	22.22	4	Yes	Yes	

Potential Labor Supply Gaps

Preliminary Workforce Potential Supply Gap Analysis Florida Statewide - January 2021

SOC Title	2020 Employment	2028 Employment	Percent Growth	Employment Growth	2020-2028 Openings	Annual Opening	Unique Annual Job Postings	Educational Completers	Education Level	Potential Supply Gap Category
Child Care Workers	43,878	51,034	16.3	7,156	63,796	7,975	7,838	624	Postsecondary Non-degree Award	High
Industrial Machinery Mechanics	14,197	16,525	16.4	2,328	13,588	1,699	1,244	229	Postsecondary Non-degree Award	High
Automotive Service Technicians and Mechanics	53,198	56,011	5.3	2,813	45,348	5,669	14,063	1,015	Postsecondary Non-degree Award	High
Licensed Practical and Licensed Vocational Nurses	49,549	56,043	13.1	6,494	38,674	4,834	12,686	1,239	Postsecondary Non-degree Award	Moderate
Paralegals and Legal Assistants	32,185	36,013	11.9	3,828	32,684	4,086	6,426	1,102	Postsecondary Non-degree Award	Moderate
Elementary School Teachers	70,984	79,450	11.9	8,466	52,850	6,606	4,107	2,293	Bachelor's Degree	Moderate
Medical Assistants	59,834	72,851	21.8	13,017	71,483	8,935	14,988	3,253	Postsecondary Non-degree Award	Moderate
Accountants and Auditors	81,044	90,487	11.7	9,443	73,390	9,174	10,402	4,535	Bachelor's Degree	Moderate
Preschool Teachers	30,654	35,331	15.3	4,677	31,172	3,897	7,516	2,292	Associate Degree	Moderate
Aircraft Mechanics and Service Technicians	14,165	16,059	13.4	1,894	11,790	1,474	794	907	Postsecondary Non-degree Award	Low
Physical Therapist Assistants	6,827	8,849	29.6	2,022	9,794	1,224	1,413	755	Associate Degree	Low

Next Steps – Workforce Alignment

- New Methodology to Align Workforce Supply & Demand
 - Supply Consists of:
 - Existing Workers
 - Workers that stay in same occupation
 - Workers that transfer to/from related or unrelated occupations
 - Workers that leave the workforce
 - Potential Workers
 - Job Seekers
 - High School Graduates
 - Adult Education Graduates
 - Associate Degree Graduates
 - Bachelor's & Higher Degree Graduates
 - Demand Consists of:
 - Projected Annual Job Openings by Occupation
-

Contact Information

Thank You.

If you have questions or comments about this presentation or need to discuss a future project, please contact us.

WSER.info@deo.myflorida.com

Visit: FloridaInsight.org



Director Of Workforce Services-DEO
Adrienne Johnston: 850-245-7427

Career and Technical Education Programs and Labor Market Needs

Senate Presentation
January 26, 2021



Presented by -

**Henry Mack, Chancellor
Division of Career and Adult Education**

**Kathy Hebda, Chancellor
Division of Florida Colleges**



Definitions & Credentialing Award Types

Career and Technical Credential Types -Issued by Institutions

Definitions

Career Certificate – signifies a student has successfully completed a (clock hour) postsecondary career education program and is ready for employment in a field that requires non-college credit postsecondary training.

Applied Technology Diploma – signifies a student has successfully completed a (clock hour or college credit) postsecondary career education program and is ready for employment in a field; the program has embedded statewide articulation leading to the award of an AS degree.

Associate in Science/Associate in Applied Science Degree – prepares students for occupations that require a two-year technical degree.

College Credit Certificate – prepares students for entry into employment in a field that requires some college credit but less than a degree and signifies a student has successfully completed part of an A.S. degree.

Baccalaureate degree (workforce baccalaureate) – prepares students for occupations that require a four-year degree.

Examples

Florida Law Enforcement Academy, Automotive Service Technology

Dental Assisting Technology and Management—ATD

Nursing R.N. (A.S.), Automotive Service Management Technology (A.A.S.)

Paramedic, Business Entrepreneurship

Accounting, Business Administration



Career and Technical Credential Types

-Issued by Florida Department of Education

Definitions

Apprenticeship Certificate of Completion – signifies a registered apprentice has successfully completed the technical and academic standards of a registered apprenticeship program.

Pre-Apprenticeship Certificate of Completion – signifies a registered pre-apprentice has successfully completed the technical and academic standards of a registered pre-apprenticeship program.

Examples*

Florida Electric Apprenticeship & Training GNJ Certificate of Completion
Piper Aircraft Apprenticeship Program, ING Certificate of Completion

Tampa Ironworkers Preapprenticeship JATC Certificate of Completion
Brevard Adult Education Preapprenticeship Program

*Certificate is signed by Chancellor of Career and Adult Education, State Apprenticeship director, and the program sponsor

Career and Technical Credential Types

- Issued by 3rd Party Entity

Definitions

Industry Certification – a time-limited credential issued by an independent, 3rd party certifying entity

Licensure – credential issued for a purpose of qualification for practice in a certain occupation

Examples

AWS Certified Welder – SMAW Plate (AWELD012)
CompTIA A+ (COMPT001)
HVAC Excellence Employment Ready – Electrical (HVACE001)

Law Enforcement Officer (FLDLE004)
Firefighter II (FLSFM006)
Certified Nursing Assistant (FDMQA002)

Program Approval Process

Multilayered Approach to Program Approval



Certificate and Associate

- FDOE develops and maintains career & technical education (CTE) programs that align with 17 career clusters
- Programs are detailed in curriculum frameworks developed with education, business and industry, and trade associations
- Once State Board of Education (SBOE) approves a program, it may be offered by any institution in Florida



Apprenticeship

- Program sponsor submits apprenticeship agreement which outlines the terms and conditions for the training program to the department.
- Office of Apprenticeship conducts statutory and regulatory compliance review of the agreement.
- Office of Apprenticeship registers the program in federal apprenticeship database and notifies program of its approval to operate.



Baccalaureate

- State colleges may seek approval from SBOE to offer baccalaureate degrees in limited, high-demand workforce areas
- The process established in section 1007.33, Florida Statutes, requires colleges to partner with business/ industry to show demand and demonstrate unmet need through data
- The first annual CTE audit of the baccalaureate programs revealed that all programs are meeting market demand

Other Key Definitions

- **Middle to High Wage:** *Middle Wage* occupations at the state-level are those with a Mean Wage of \$15.13/hour and an Entry Wage of \$12.31/hour. Entry and average hourly wage thresholds for the Statewide Demand Occupation List (developed by DEO) are often used in establishing performance and/or alignment.
- **High Wage:** For state purposes, DEO identifies *High Wage* occupations at the state-level (via the Statewide Demand Occupation List) as those with a Mean Wage of \$23.72/hour and Entry Wage of \$15.13/hour.
- **High Demand:** Not defined in statute; DEO identifies high demand occupations on the Statewide Demand Occupation List as those with:
 - 500 annual openings and average growth rate of 1.26%; or,
 - 1,200 annual openings with any positive growth

**These criteria are also used on the CTE Audit to identify High Demand occupations. Further, DEO modifies these thresholds by region to identify regional High Demand occupations (found on the Regional Demand Occupation Lists).
- **Stackable Credentials:** The U.S. Department of Labor defines stackable credentials as part of a sequence of credentials that can be accumulated over time to build up an individual's qualifications and help them move along a career pathway or up a career ladder to different and potentially higher-paying jobs.

Lists, Resources, and Supply and Demand

Identification of Industry Recognized Credentials & Credentials of Value

CAPE Industry Certification Funding List (K-12)

- s. 1008.44(1), F.S.
- s. 1003.492, F.S.
- Used for Florida Education Finance Program (FEFP) supplemental FTE for industry certification attainment as well as school grades calculation (acceleration component)
- Joint development with CareerSource and Florida Department of Economic Opportunity
- List adopted annually by the State of Education

CAPE Postsecondary Industry Certification Funding List

- s. 1008.44(1), F.S.
- ss. 1011.80, 1011.81, F.S
- Used for performance funding for school districts and Florida College System institutions for occupational areas identified in the General Appropriations Act (GAA)
- List adopted annual in rule by the State Board of Education

Perkins V Industry Recognized Credentials (IRCs)

- Federal – Strengthening Career and Technical Education for the 21st Century Act (aka Perkins V)
- Included as a type of recognized postsecondary credentials for accountability measures for the Perkins V law
- Initial list is still under development but informed by prior Perkins IV work as well as the current CAPE Industry Certification Funding List
- Only list where certifications will be linked to programs (for postsecondary only)

Identification of other Valued Credentials or Programs (Continued)

Career and Technical Education Audit List

- s. 1003.491(5), F.S.
- Provides authority to Commissioner of Education to audit all workforce programs to ensure for alignment to market demand.
- Joint development with CareerSource and Florida Department of Economic Opportunity & other stakeholders.
- Lists to be annually reviewed and synced with curriculum framework review process/cycle to ensure for quality.

Rapid Credentialing Grant (GEER) Lists

- Two lists of short term CTE programs that met statewide benchmarks, aligned to a mid-to-high wage occupation
- Crosswalked list to EF's targeted industry sectors and CareerSource sector strategy;
- Developed NAICS to CIP Code crosswalk, matched against targeted industries
- Consists of short-term clock hour and credit and industry certification preparation courses.

CTE Audit: Year 1 Findings

1. Created direct links between CTE, Florida's talent pipeline and the resulting metrics of Florida's economic success.
2. Forensically identified high quality secondary and postsecondary CTE programs.
3. Aligned those high quality CTE programs with in-demand professions.
4. Districts, technical colleges and state colleges dropped hundreds of low-wage, low-demand CTE programs.
5. Increased accountability leading local programs' to create their own improvement plans.
6. Designed a regularly recurring process to ensure perpetual alignment between courses, programs and in-demand careers.

Credentials of Value

- Recently launched year-long initiative funded by BMGF grant (125k)
- With help of Education Strategy Group, convene statewide workgroup with cross-sector/agency representation:
 1. Evaluate statewide funding streams for CTE programs;
 2. Develop agreed definition for what makes a secondary and postsecondary degree/certificate/certification "valuable" in Florida;
 3. Develop and implement framework/methodology for measuring "value" to **create a statewide & regional lists.**

CTE Data Analytics Tool

- Invitation to Negotiate (ITN) is currently open for bids
- Multiple Functionalities
 - Collect and analyze Department student attainment & performance data of all credentialing award types, including non-degree credentials offered by Florida school districts, Florida technical colleges, Florida College System (FCS) institutions & WIOA providers/partners;
 - visualize credentialing program quality indicators as determined by the office of career and technical education (CTE) program quality;
 - develop a program inventory or registry of credentials to describe, on the one hand, local level credentialing programs available, and competencies/skills obtained, through an open data format that supports full transparency and interoperability
 - Automate the Perkins V Comprehensive Local Needs Assessment and the State and Local Performance Reviews of the annual CTE audit.

Classification of Instructional Programs (CIP)



Taxonomy for common reporting of academic and technical programs of study



Developed by the National Center for Education Statistics (NCES)



For the 2021-22 year, FDOE is working on updating based upon the 2020 CIP structure



Standard Occupational Classification (SOC) System



Federal standard classifying workers into occupational categories



All workers are classified into one of 867 detailed occupations

Multiple linkages between CIPs and SOCs exist

Network and System Administration/Administrator (CIP 11.1001)

Computer and Information Systems Managers (SOC 11-3021)

Network and Computer Systems Administrators (SOC 15-1142)

Information Security Analysts (SOC 15-1122)

Computer Network Support Specialists (SOC 11-1152)

Other Tools and Resources on Supply and Demand

Resources: Data Infrastructure

- **Statewide Longitudinal Data Systems:** Florida is unmatched in its infrastructure and capacity to collect and report timely, high-quality data on students across Florida's K-20 education system. Through the PK-20 Education Data Warehouse, the Florida Department of Education (department) provides stakeholders in public education with the capability of receiving timely, efficient, consistent responses to inquiries into Florida's kindergarten through university education.
- **Data Sharing Partnerships:** The Florida Education and Training Placement Information Program (FETPIP) is used to track employment, earnings and continuing education outcomes. The Department of Education and FETPIP have a longstanding positive relationship working closely with the state workforce agency. Through interagency data agreements, FETPIP has direct access to unit record student, graduate and leavers UI wage data to promote program improvement.

Resources: Tools for Identifying Unmet Need for FCS Institutions

- For the baccalaureate program approval process, the department has guidelines to assist colleges in determining the unmet need for their instructional programs, where:

$$\text{Demand} - \text{Supply} = \text{Unmet need}$$

- Demand is determined by analyzing the annual number of job openings in the region through the [State College Projections Portal](#).
- Supply is determined by calculating the annual number of postsecondary completers from nonpublic and public postsecondary institutions in the region. These data are available through the National Center for Education Statistics, [Integrated Postsecondary Education Data System](#).
- Unmet need is the difference between the total job openings and annual supply of completers.

Resources: State College Projections Portal


State Colleges Projections Portal

Home > Workforce Statistics > Products and Services > State Colleges Projections Portal

- Workforce Statistics Data Releases
- About Workforce Statistics
- Data Center
- Products and Services
 - Economic Impact Analysis
 - GIS Resources
 - Dashboards
 - Regional Labor Supply Dashboard
 - Online Job Demand Tool
 - State Colleges Projections Portal**
 - Labor Market Information Training
- Publications and Reports
- Related Resources
- A-Z Index

Allocated Projections for Florida Colleges

At the request of the [Division of Florida Colleges](#), the Department of Economic Opportunity, Bureau of Labor Market Statistics produced special editions of industry and occupational projections for use in planning Florida College programs.



people leaving that occupation and the labor force.

2019 - 2027 College Projections Dashboard

Custom Tables for Florida Colleges:

[Employment Projections User Guide](#)

Contact Us

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wser.info@deo.myflorida.com

Florida Department of Economic Opportunity
MSC G-020
Tallahassee, FL
32399-4111

Workforce Statistics Customer Survey

<https://floridajobs.org/workforce-statistics/products-and-services/state-colleges-projections-portal>

Incentive Funds – Florida College System and School District Postsecondary

Florida College System

- \$14 million through specific appropriation 130 for FCS institutions to earn bonus funding for each student who earns an industry certification in select occupational areas such as public safety, health sciences, cybersecurity, welding, etc., as listed in the GAA
- \$10 million through the Work Florida Student Success Incentive Fund ("performance funding") to recognize FCS institutions for student completion and placement into high-demand jobs or high skill/high wage jobs.

School Districts

- \$6.5 million through Specific Appropriation 124 for school districts to earn bonus funding for each student who earns an industry certification in select occupational areas such as select health careers, advanced manufacturing, cybersecurity, welding, etc., as listed in the GAA.



State University System Workforce Initiatives

Marshall M. Criser III
Chancellor

January 26, 2021
www.flbog.edu

State University System Overview

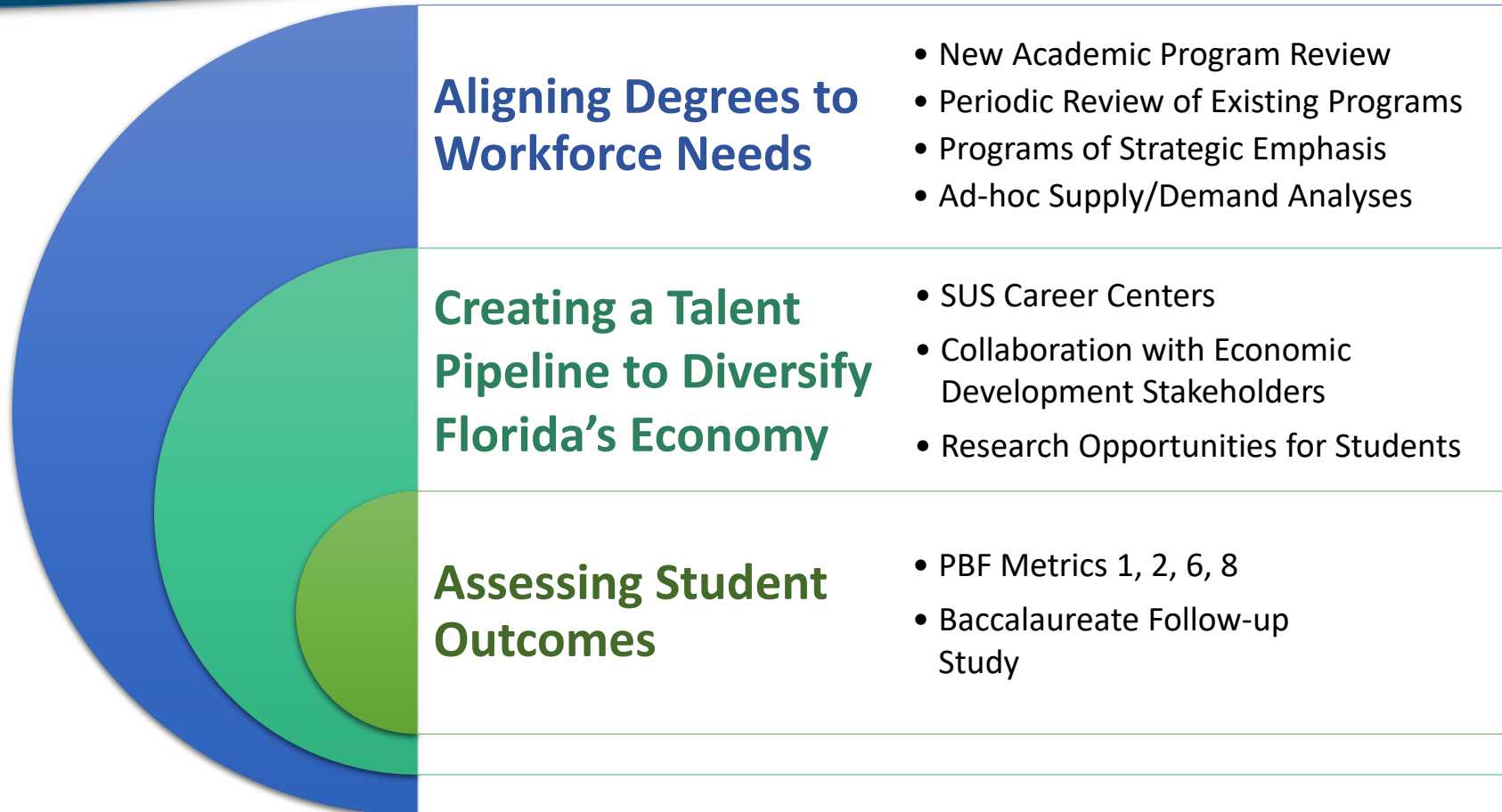


12 public institutions
+420,000 students

+97,000 degrees awarded

2nd lowest tuition in
the country

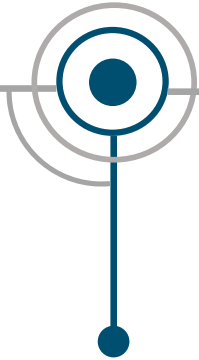
#1 state in the nation for
higher education
2017, 2018, 2019



Aligning Degrees to Florida's Needs

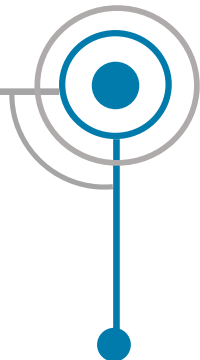


New Academic Programs



Board office reviews all new academic programs to ensure workforce demand

Existing Academic Programs



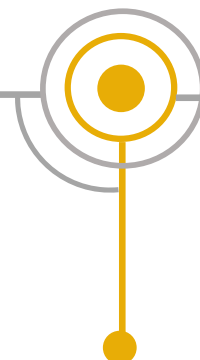
Board office periodically reviews existing academic programs to ensure efficient use of resources

Programs of Strategic Emphasis



Updated 2019 & 2020 to identify state workforce needs & emerging fields; used in PBF

Gap Analyses



Review of labor market data including workforce demand projections & related graduate production

Programs of Strategic Emphasis

used to align SUS degrees with Florida's economic & workforce needs



Education



Healthcare



Global



STEM



Gap Analysis

Gap Analysis – Overview



Based primarily on labor market supply/demand analysis

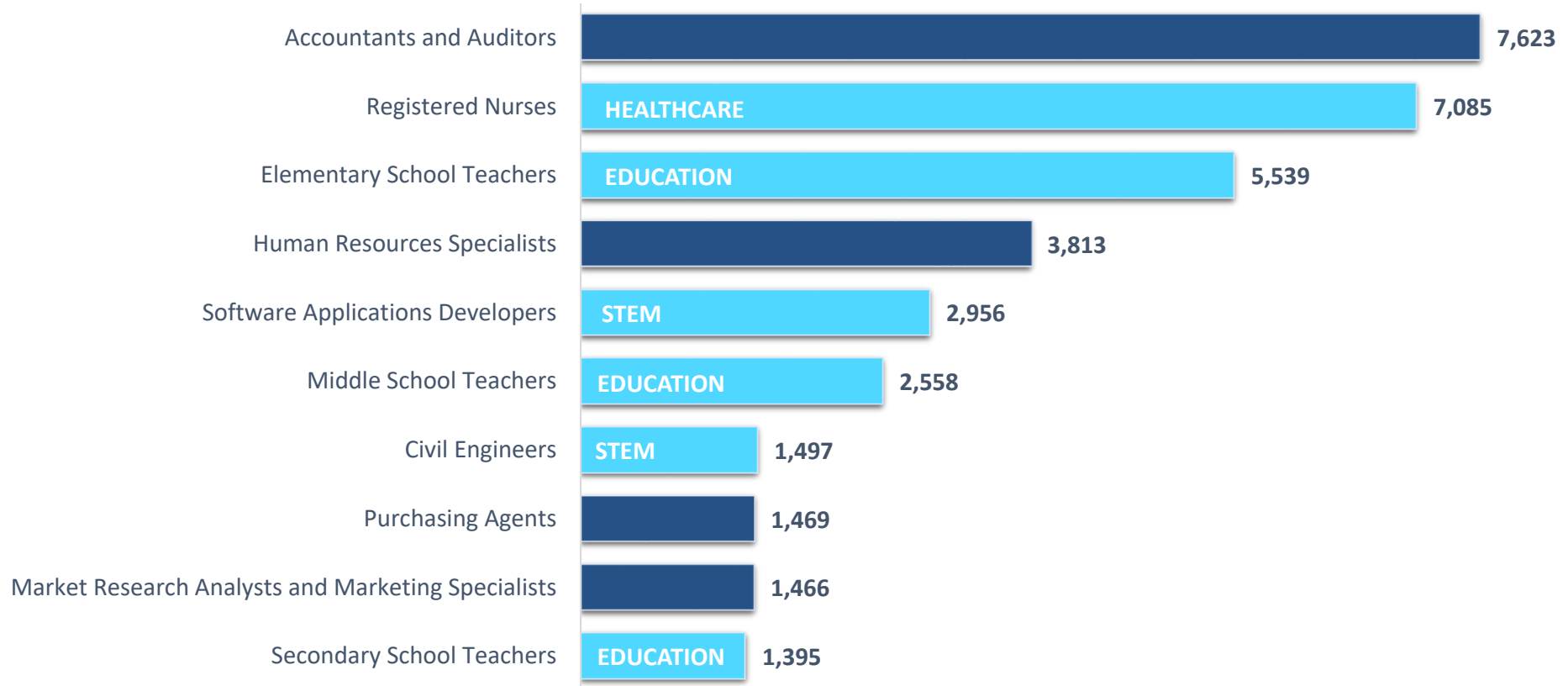
- Occupation requires a bachelor's degree minimum for entry level per BLS
- Supply data was adjusted to acknowledge graduate occupational choices
- Calculated gap of at least 100 openings
- Growth rate of at least 10.1%
- Median Florida wage of at least \$45,000 per year



Gap Analysis – Top Ten Occupations



CALCULATED GAP

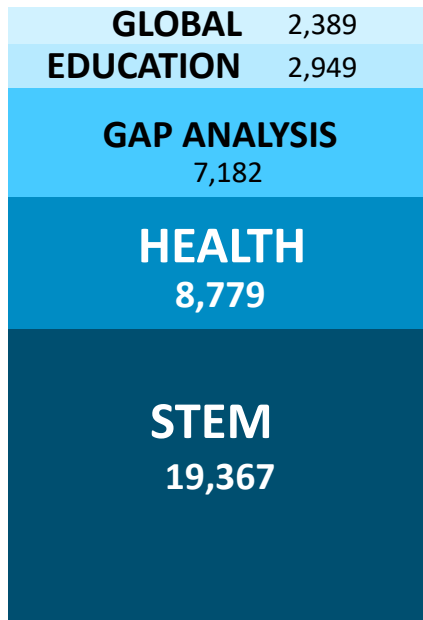


Source: Board of Governors Gap Analysis utilizing data from the Florida Department of Economic Opportunity, the National Center for Education Statistics' Integrated Postsecondary Data System (IPEDS), and the United States Department of Labor Bureau of Labor Statistics.

Programs of Strategic Emphasis Degrees Awarded

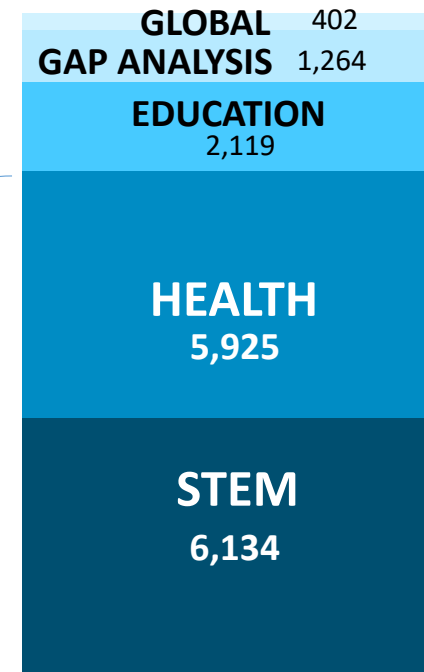


54%
of all Bachelor's Degrees



Most Degrees in
Programs of
Strategic Emphasis
are awarded in
STEM & Health

63%
of all Graduate Degrees



Source: Florida Board of Governors Office of Data Analytics, 1/19/21. Based on preliminary completer data for the 2019-20 academic year.

Strong Talent Pipeline to Diversify Florida's Economy



SUS Career Centers work to connect students with employers & prepare them for employment

Collaboration with economic development stakeholders to recruit & retain businesses



SUS research opportunities allow students to gain experience for future jobs



Post Graduation Outcomes

-1-

% of Bachelor's
Grads Enrolled or
Employed
(\$25,000+)

70%

2017-18

-2-

Median Wages of
Bachelor's
Graduates
(Employed Full-Time)

\$39,900

2017-18

Impact

More graduates are **securing employment** after graduation & **earning higher wages**

Programs of Strategic Emphasis

-6-

% of Bachelors
Degrees Awarded
within Programs of
Strategic Emphasis

52.6%

2018-19

-8-

% of Graduate
Degrees Awarded
within Programs of
Strategic Emphasis

63.8%

2018-19

Impact

Universities are awarding **more bachelor's & graduate degrees** in **areas critical to Florida**



Baccalaureate Follow-up Study

Outcomes 1, 5 & 10 years after graduation

**Most graduates were
employed & worked full-time**

**More than 1/3 of graduates
go on to receive another
credential**

**Wages increase 57%
by year 10**

<https://www.flbog.edu/resources/baccalaureate-follow-up-study/>



www.flbog.edu